

## **AGENDA**

### **THE FOURTEENTH MEETING OF THE ONE HUNDRED AND TWENTY-SEVENTH COUNCIL OF THE CORPORATION OF THE CITY OF ST. THOMAS**

**COUNCIL CHAMBERS      6:00 P.M. CLOSED SESSION**  
**CITY HALL              7:00 P.M. REGULAR SESSION      FEBRUARY 19TH, 2007**

#### **ROUTINE PROCEEDINGS AND GENERAL ORDERS OF THE DAY**

OPENING PRAYER

DISCLOSURES OF INTEREST

MINUTES

DEPUTATIONS

COMMITTEE OF THE WHOLE

REPORTS OF COMMITTEES

PETITIONS AND COMMUNICATIONS

UNFINISHED BUSINESS

NEW BUSINESS

BY-LAWS

PUBLIC NOTICE

NOTICES OF MOTION

ADJOURNMENT

CLOSING PRAYER

#### **THE LORD'S PRAYER**

Alderman L. Baldwin-Sands

#### **DISCLOSURES OF INTEREST**

#### **MINUTES**

Confirmation of the minutes of the meeting held on February 12th, 2007.

#### **DEPUTATIONS**

##### **Police Services Report**

A representative of the St. Thomas Police Department will be in attendance to present the Police Services Report for the month of January 2007.

#### **COMMITTEE OF THE WHOLE**

Council will resolve itself into Committee of the Whole to deal with the following business.

##### **PLANNING AND DEVELOPMENT COMMITTEE** - Chairman H. Chapman

#### **UNFINISHED BUSINESS**

#### **NEW BUSINESS**

**BUSINESS CONCLUDED****ENVIRONMENTAL SERVICES COMMITTEE** - Chairman T. Johnston**UNFINISHED BUSINESS**Road and Sidewalk Reserve FundProposed Playground Development - Feasibility Analysis of Proposed Public/Private Partnership between City of St. Thomas and Faith Baptist ChurchGreen Lane Landfill Purchase by the City of Toronto - Status Report - Possible Waste Management Contract ExtensionRepairs to Walkway at 630 Talbot Street

Report ES21-07 of the Manager of Operations &amp; Compliance. Pages 7 to 11

**NEW BUSINESS****BUSINESS CONCLUDED****PERSONNEL AND LABOUR RELATIONS COMMITTEE** - Chairman G. Campbell**UNFINISHED BUSINESS****NEW BUSINESS****BUSINESS CONCLUDED****FINANCE AND ADMINISTRATION COMMITTEE** - Chairman T. Shackelton**UNFINISHED BUSINESS**Cash Advances & Expenses Reimbursement ReportSt. Thomas Consolidated Courthouse Project - Police FacilitiesMayor and Council ExpensesSt. Thomas-Elgin Public Art Centre - Grant RequestSt. Thomas and District Minor Baseball Association - Grant Request2007 Capital Budget - Part 1 - Transit Station Options ReportSt. Thomas Police Services Space NeedsElgin Military Museum - Grant Request**NEW BUSINESS**Procurement of Electricity

Report TR-05-07 of the Purchasing Agent. Pages 12 &amp; 13

Catfish Creek Conservation Authority - 2007 Preliminary Draft Budget

A letter has been received from Mr. Kim Smale, General Manager/Secretary-Treasurer, Catfish Creek Conservation Authority, regarding the Authority's 2007 Preliminary Draft Budget. Page 14 Attachment. Copy available in the Clerk's Department.

**BUSINESS CONCLUDED**

**COMMUNITY SERVICES COMMITTEE** - Chairman B. Aarts

**UNFINISHED BUSINESS**

Parks Pavilion Renaming

Walk of Fame

Paralympics Ontario - Request for Hosting Bids

Ontario Provincial Fastball Championships - Concession Services

**NEW BUSINESS**

**BUSINESS CONCLUDED**

**PROTECTIVE SERVICES AND TRANSPORTATION COMMITTEE** - Chairman D. Warden

**UNFINISHED BUSINESS**

Intersection of First Avenue and Edward Street

Intersection of Edward Street and Burwell Road

Leash Free Dog Park

Bus Services to 1063 Talbot Street and Shopping Complex near Elm Street and Wilson Avenue

Transit System and CASO Station

Transit Facility Improvement Options

By-Law for Loitering

Termination of Fire Dispatch Services

Intersection of Third Avenue and Wellington Street

White Street Yield Signs

Wings & Wheels Fundraiser - June 22nd, 23rd and 24th, 2007

Replacement of Railway Ties

2007 St. Anne's Community Festival

St. Thomas Transit Terminal Building

**NEW BUSINESS**

Restricted Parking, 2 hour Zones - Revision to Schedule III of By-Law No. 45-89

Report ES22-07 of the Supervisor of Roads and Transportation. **Page** 15

By-Law for Entering on Land for the Purpose of Carrying out Inspections

Report CC 05-07 of the Deputy City Clerk. **Pages** 16 to 22

"Paws For The Cause" Fundraiser - Request for Street Closure - Mondamin Street

A letter has been received from Traci Kennedy requesting a street closure of Mondamin Street for the "Paws For The Cause" fundraiser to take place on May 26th and 27th, 2007.

**BUSINESS CONCLUDED**

**SOCIAL SERVICES COMMITTEE** - Chairman L. Baldwin-Sands

**UNFINISHED BUSINESS**

**NEW BUSINESS**

**BUSINESS CONCLUDED**

**REPORTS PENDING**

**ROAD RESURFACING PROGRAM - BUDGET FORECASTS** - J. Dewancker

**COUNCIL**

Council will reconvene into regular session.

**REPORT OF COMMITTEE OF THE WHOLE**

Planning and Development Committee - Chairman H. Chapman

Environmental Services Committee - Chairman T. Johnston

Personnel and Labour Relations Committee - Chairman G. Campbell

Finance and Administration Committee - Chairman T. Shackelton

Community Services Committee - Chairman B. Aarts

Protective Services and Transportation Committee - Chairman D. Warden

Social Services Committee - Chairman L. Baldwin-Sands

A resolution stating that the recommendations, directions and actions of Council in Committee of the Whole as recorded in the minutes of this date be confirmed, ratified and adopted will be presented.

**REPORTS OF COMMITTEES**

**PETITIONS AND COMMUNICATONS**

St. Anne's Community Festival - June 6-9, 2007

A letter has been received from Rev. Rick Dales, St. Anne's Community Festival, requesting that Council approve the St. Anne's Community Festival being held on the parish grounds from June 6th to 9th, 2007 and declare the event as a Community Festival. In addition, Rev. Dales is requesting a letter of authorization from the city stating that it has no objection to the festival taking place and no objection to the temporary extension of the liquor licence. Page 23

The Order of Ontario - Nominations

A letter was received from Rachele Dabraio, Director, Citizenship Division, The Order of Ontario, requesting nominations for The Order of Ontario for individuals who demonstrate excellence and exceptional achievement in Ontario. The deadline for nominations is February 28, 2007.

**Railway City Brewing Company Ltd. - 168 Curtis Street - Brewery Retail Store Application**

Application has been made to the Alcohol and Gaming Commission of Ontario by Railway City Brewing Company Ltd., for a Brewery Retail Store at 168 Curtis Street, St. Thomas. Council may make representation to the Commission concerning the application.

A notice has been received from Railway City Brewing Company Ltd. advising Council of the intent to build and operate a Micro-Brewery at 168 Curtis Street. City Hall is within the notice area.

**Pitch-In Canada Week - Operation: Clean Sweep - April 23rd to 29th, 2007**

A letter has been received from Alice Johnson, Volunteer Chair, Pitch-In Ontario, regarding "Pitch-In Canada Week" to be held the week of April 23rd to 29th, 2007. Pages 24 + 25

Registration to take place no later than March 15, 2007.

**Highbury Industrial Park Design Principles**

A recommendation has been received by the Economic Development Corporation to consider and adopt design principles as part of the criteria to be considered in the sale of lands in the Highbury Industrial Park. Pages 26 to 29

**UNFINISHED BUSINESS**

**Canadian Championship - Acknowledgment Signage**

**Yellow Ribbon Month**

**NEW BUSINESS**

**BY-LAWS**

**First, Second and Third Reading**

1. A by-law to confirm the proceedings of the Council meeting held on the 19th day of February, 2007.
2. A by-law to amend By-Law 45-89, being the Traffic By-Law for the City of St. Thomas. (Corresponding Signs - Restricted Parking - Two-Hour Limit - 8:00 a.m. - 6:00 p.m., Monday to Saturday)
3. A by-law to authorize the entry on land, without notice, at any reasonable time for the purpose of carrying out an inspection.
4. A by-law to authorize the Mayor and Clerk to execute and affix the Seal of the Corporation to a certain agreement between the Corporation of the City of St. Thomas, 794470 Ontario Limited, and Geoffrey Richards. (Assignment of Lease - St. Thomas Municipal Airport - Part 9, Reference Plan 11R-1602)

**PUBLIC NOTICE**

**NOTICES OF MOTION**

**CLOSED SESSION**

A resolution to close the meeting will be presented to deal with a personal matter about an identifiable individual and a matter protected under the Municipal Freedom of Information and Protection of Privacy Act.



Corporation of the

City of St. Thomas

7

Report No.

ES21-07

File No.

05-008-01

Directed to:

Chairman Dave Warden and Members of the Protective Services & Transportation Committee of Council

Date

February 19, 2007

Department:

Environmental Services

Attachment

Downtown Development Board Letter  
ES Quality standard for sidewalk maintenance

Prepared By:

Ivar Andersen, Manager of Operations & Compliance

Subject:

Walkway to Moore Street Parking Lot at 630 Talbot Street

### RECOMMENDATIONS

It is recommended that:

1. Report ES21-07 be received for information;
2. The walkway access to the Moore Street Parking Lot at 630 Talbot Street is rebuilt as part of the rehabilitation of the Moore Street parking lot, which is being designed in 2007.

### Origin

City Council received a letter from the St. Thomas Downtown Development Board, attached, requesting that the walkway located at 630 Talbot Street be rebuilt at the same time as the Moore Street Parking Lot is rehabilitated.

### Analysis

City staff has met with a representative of the Downtown Development Board to discuss the issues raised in the letter. As a result, arrangements were made with St. Thomas Energy Incorporated to have lights installed on two existing poles in the parking lot but in close vicinity to the walkway. This has greatly improved the general lighting in the area. The cost of this work was borne by the existing Operating budget.

Council approved the redesign of the Moore Street Parking Lot when Part 1 of the Capital Budget was approved in December of 2006. The redesign of this walkway can easily be incorporated into the parking lot project with no appreciable increase in costs. Once the design of the parking lot and walkway has been completed, a construction cost estimate will be developed. At this time, the earliest that the parking lot and walkway would be reconstructed would be in 2008, however, this would be determined by Council during the 2008 Capital Budget deliberations.

In the interim, staff will ensure that the walkway is maintained in a safe condition in compliance with the September 2002 approved Environmental Services' Quality Standards for the maintenance of sidewalks and walkways. (copy attached)

Respectfully,

Ivar Andersen, Manager of Operations & Compliance  
Environmental Services

Reviewed By:

Treasury

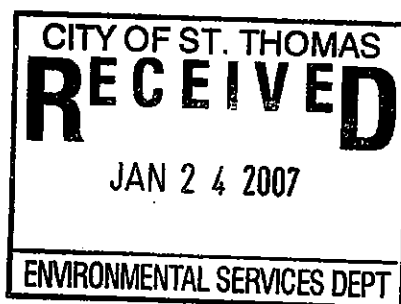
Env Services

Planning

City Clerk

HR

Other



January 23, 2007

Mayor Cliff Barwick and Members of City Council  
Corporation of the City of St. Thomas  
545 Talbot Street, P.O. Box 520  
St. Thomas, Ontario  
N5P 3V7

City of St. Thomas  
Received

JAN 23 2007

**Re: Repairs Needed to Walkway at 630 Talbot Street**

Mayor and Members of Council,

It has come to the attention of the Downtown Development Board that the walkway that joins Talbot Street to the Moore Street parking lot requires immediate attention. The location of this walkway is illustrated in the diagram below.

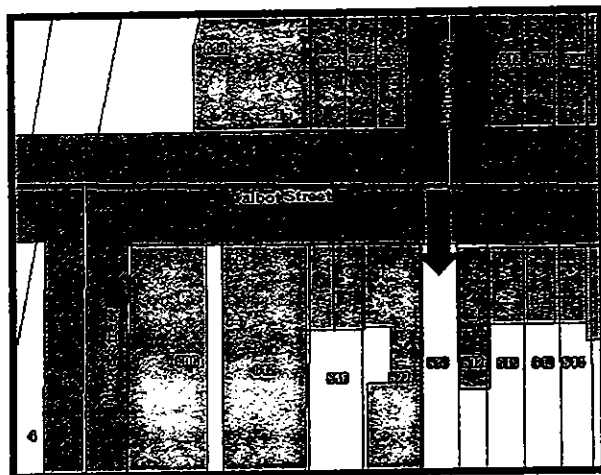
This walkway serves as an important linkage for the patrons to travel from the parking lot to the businesses and is currently a hazard with uneven cement slabs. The uneven walkway is made worse by poor lighting, surely an issue to those using this path in the evening, travelling to and from the several area restaurants.

It is our understanding that the Moore Street parking lot will be redeveloped this year, and we hope that you will consider making this walkway part of this process.

Thank you for your attention to this matter.

Submitted respectfully,

*Mark Cosens*  
for  
Mark Cosens  
Chairman



REFERRED TO	
J. DEWANCKER	<i>mdh</i>
FOR	
DIRECTION	<input type="checkbox"/>
REPORT OR COMMENT	<input checked="" type="checkbox"/>
INFORMATION	<input type="checkbox"/>
FROM MARIA KONEFAL	

CITY OF ST. THOMAS

MAINTENANCE MANAGEMENT  
SYSTEM

Department	ENVIRONMENTAL SERVICES	
Division	Public Works	
Eff. Date	10-07-02	Page 14 of 32

## QUALITY STANDARD FOR

## Sidewalks

## OBJECTIVE

The major objectives for SIDEWALK maintenance are:

- To provide safe sidewalk conditions for pedestrian traffic. This includes:
  - Replacing hazardous cracked or broken slabs,
  - Realigning dangerously heaved or depressed slabs,
  - Resurfacing badly spalled depressed slabs with asphaltic materials
- To provide barrier free access to sidewalks
- To protect the investment in sidewalks.

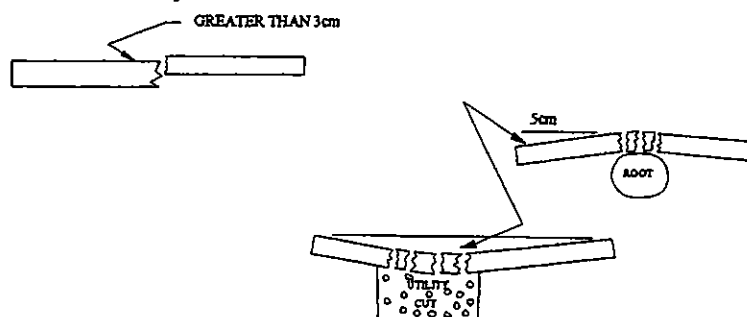
## SUMMARY OF QUALITY STANDARD

The level-of-service for SIDEWALK shall be in accordance with the following:

Replacing Sidewalks

- Broken sidewalk slabs which are heaved or depressed by more than 3cm., shall receive 1st priority for replacement on the current "sidewalk repair program."

Examples:



- Broken sidewalk slabs which are heaved or depressed by 3 to 5 cm over the length of two (2) slabs shall receive 1<sup>st</sup> priority for replacement on the current "sidewalk repair program."
- Broken sidewalk slabs which are heaved or depressed by less than 3 cm, over the length of two (2) slabs shall not be programmed for replacement until such time as the deflection becomes 3cm or greater.



CITY OF ST. THOMAS

MAINTENANCE MANAGEMENT  
SYSTEM

Department	ENVIRONMENTAL SERVICES	
Division	Public Works	
Eff. Date	10-07-02	Page 14a of 32

## QUALITY STANDARD FOR

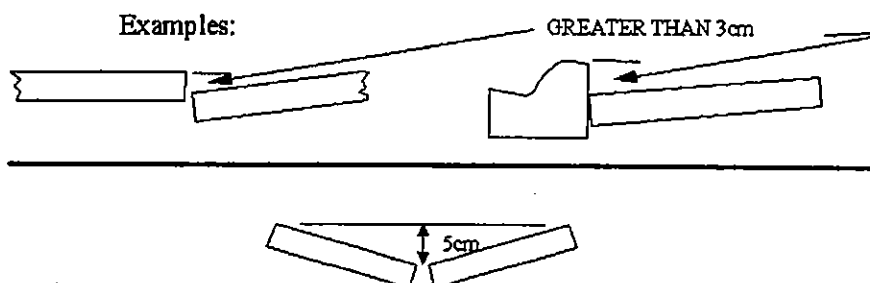
## Sidewalks

## SUMMARY OF QUALITY STANDARD (CONTINUED)

- If more than 50% of the sidewalk slabs in a length of damaged walk are 70% to 100% damaged, then the entire length of sidewalk shall be replaced with concrete.
- The cost of replacing sidewalk slabs, broken or removed during installation or repair of utilities, shall be the responsibility of the Utility Company. Replacement will be in accordance with the Engineering Department Standards and Specifications. Notification of such replacement shall be made to the Engineering Department and such work shall be approved and inspected by the Engineering Department

Realigning Sidewalks

- Unbroken sidewalk slabs which are heaved or depressed by more than 3 cm shall receive first priority for realignment on the current "sidewalk repair program"



- Unbroken sidewalk slabs which are heaved or depressed by less than 5 cm, over the length of two (2) slabs, shall not be programmed for realignment until such times as the deflection becomes 5 cm or greater.

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CITY OF ST. THOMAS

MAINTENANCE MANAGEMENT SYSTEM

Department	ENVIRONMENTAL SERVICES	
Division	Public Works	
Eff. Date	10-07-02	Page 14b of 32

QUALITY STANDARD FOR

Sidewalks

SUMMARY OF QUALITY STANDARD (CONTINUED)

- Resurfacing of existing concrete sections of sidewalk shall only be carried out under conditions that are warranted to provide safe walking conditions in areas of heaved / depressed / broken / spalled sections of sidewalk. These repairs are to be considered temporary in nature where/when total reconstruction is not feasible or possible at the time. Resurfaced sections of sidewalk shall be classed as being deficient.
- Barrier free access ramps shall be installed whenever repairs / construction occurs in areas already not barrier free accessible



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Corporation of the  
**City of St. Thomas**

**Report No.**

TR-05-07

**File No.**

**Directed to:** Chairman Terry Shackelton and Members of the Finance and Administration Committee

**Date**

February 8, 2007

**Department:** Treasury (Purchasing Section)

**Attachments:**

**Prepared By:** Mike Hoogstra, Purchasing Agent

None

**Subject:** Procurement of Electricity

**Recommendation:**

THAT: Council receive Report No. TR-05-07.

THAT: Wattsworth Analysis be recognized as the agent to negotiate all required electricity purchases on behalf of the City.

THAT: A by-law be prepared to authorize the Mayor and Clerk to sign an Agency Appointment Agreement with Wattsworth Analysis.

THAT: The authority to make all future electricity program related decisions for the Corporation of the City of St. Thomas be delegated to the City Treasurer and subsequently reported to Council.

**Background:**

The City of St. Thomas has been a joint partner in the Elgin-Middlesex-Oxford Purchasing Cooperative (EMOP) for many years. During the latter part of 2006 at one of the EMOP meetings, the City of London invited other members to participate in the procurement of electricity. In 2004 London retained the services of an agent for the procurement of electricity. As part of the competitive bid process, the bid documents included a clause that would allow other EMOP members to participate in the contract. Over the years it has been proven that, when acting collectively, municipalities can achieve far better prices from the supply market. One example of this has been the City's participation in the procurement of natural gas. The electricity contract was awarded to Wattsworth Energy Analysis. Wattsworth is a professional services consulting company that helps large energy users in Ontario reduce costs and manage risk.

**Current Situation:**

The City has historically relied on Government fixed-price programs for the procurement of its electricity. It has become apparent through EMOP that the current program called the Regulated Price Program (RPP) differs from previous programs in that:

- a) it does not "fix" the price against market impacts as previous programs had but merely defers the spot market cost of electricity until subsequent terms, and,
- b) it uses the City's purchases of electricity to subsidize the electricity rates of residential and small commercial customers that use less than 750 kWh per month. These are not just St. Thomas' residential and commercial customers but those across all of Ontario.

Effective November 1, 2006 the RPP electricity rate changed such that for each account the first 750 kWh is priced at 5.5 cents/kWh and the balance at 6.4 cents/kWh. The net affect is that a little less than 2% of the energy consumed by the City is fixed at 5.5 cents/kWh with the balance at 6.4 cents/kWh. This results in an average price to St. Thomas of 6.39 cents/kWh. Comparatively, the spot market for electricity in 2007 is expected to average between 5.0 and 5.5 cents/kWh net of rebates due to a surplus of natural gas in the North American market, which drives electricity generation.

The City consumes approximately 11.5 million kilowatt hours annually. Our total annual cost of power is expected to be over \$1.3 million at the new RPP prices. Approximately 50% of this cost is for the energy commodity. The remaining 50% is for transmission, distribution, debt retirement, IESO charges etc., which are regulated by the Ontario Energy Board.

WattsWorth Analysis has presented an opportunity to save approximately \$140,000 utilizing an alternative electricity procurement strategy. This strategy is based on that designed by WattsWorth for the Cities of Mississauga and London which have saved them in excess of 17% per year for the past two years. Current market conditions have created an opportunity for the City to exit the RPP at a minimal cost. Energy savings are expected to accrue immediately and require no investment in capital or changes to our consumption patterns.

By exiting the RPP, St. Thomas would become eligible for government rebates that amount to fixing up to 70% of the spot market price for electricity at a weighted average cost of 4.82 cents/kWh. St. Thomas can purchase a fixed forward electricity contract from a pre-qualified supplier to fix up to 26% of the City's remaining electricity for added price security. The weighted average cost of this strategy is calculated to be between 5.3 and 5.5 cents/kWh as compared to 6.39 cents/kWh using the RPP. The outstanding 4% of the City's electricity consumption that is exposed to the spot market is not large enough to materially alter the expected results.

WattsWorth has clarified through meetings and communications with the Ministry of Energy and St. Thomas Energy that the City can opt out of the RPP at the exit fee rate and will have the option to re-enter the RPP program at no cost if it determines that the RPP is the best procurement option.

Finally, a surplus of natural gas in the North American market has resulted in both low spot market prices for electricity and very attractive forward electricity contracts from suppliers. Combined with St. Thomas' purchase as part of WattsWorth's municipal buying group, the City can transact between March and April 2007 and achieve a very attractive forward supply contract and ultimately, significant savings over the RPP.

**Conclusion:**

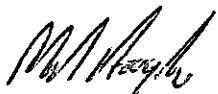
Existing Municipal customers like the Cities of Mississauga and London have saved 17% over the cost of the RPP by utilizing a WattsWorth strategy. A similar proposal by WattsWorth for St. Thomas equates these saving for the City at approximately \$140,000 per year over the current RPP rates. If the RPP proves to be a better procurement strategy in the future, we can re-enter the RPP at no cost.

For Member's information, this electricity procurement strategy will have no effect on St. Thomas Energy. St. Thomas Energy is the local distribution company and simply distributes power from the grid.

Recently the County of Elgin, Municipality of Central Elgin and other EMOP members joined the procurement strategy proposed by Wattsworth. Should Council accept the recommendations, the City's forward purchase of electricity will take place in March or April when energy prices are traditionally low.

Staff are available to answer any questions members may have.

Respectfully submitted,



Mike Hoogstra  
Purchasing Agent

Reviewed By:

 Treasury

 Env Services

Planning

City Clerk

HR

Other



# CATFISH CREEK CONSERVATION AUTHORITY

**Mission Statement:** "To communicate and deliver resource management services and programs in order to achieve social and ecological harmony for the watershed"

February 6, 2007

City of St. Thomas  
City Hall, P.O. Box 520  
St. Thomas, ON N5P 3V7

City of St. Thomas  
Received

FEB 12 2007

Attention: Mr. Wendell Graves, Clerk

Dear Sir:

RE: 2007 Preliminary Draft Budget

Please find enclosed an Executive Summary of the Catfish Creek Conservation Authority's 2007 Preliminary Draft Budget and General Levy apportionment. Detailed copies of the full 16 page Budget document are available upon request.

Attached to the Draft Budget is a schedule indicating each municipality's apportionment based on updated CVA data received from the Ministry of Municipal Affairs and Housing. The City of St. Thomas's apportionment is 6.30% of the total Municipal General Levy.

The City of St. Thomas's total Levy for 2007 is \$10,247.14, including the Special Planning Levy.

The Draft Budget and Levy apportionment is being circulated to each municipality for the 30 day notice period in accordance with the Municipal Levy Regulation made under the Conservation Authorities Act. Each municipal representative on the CCCA Board will be asked to vote on the Final Budget at the March 22nd Full Authority meeting.

If you have any questions concerning the attached information, please do not hesitate to contact our office at your convenience.

Yours truly,

Mr. Kim Smale,  
General Manager/Secretary-Treasurer

KS/sm  
Enclosures

cc: Mr. Bill Aarts, Board Member



Conservation  
ONTARIO

REFERRED TO	
W. DAY	AKLS
FOR	
DIRECTION	<input type="checkbox"/>
REPORT OR COMMENT	<input type="checkbox"/>
	<input checked="" type="checkbox"/>
MARIA KONEFAL	

8079 Springwater Road, R.R. 5, Aylmer, Ont. N5H 2R4 (519) 773-9037

Fax: (519) 765-1489

E-mail: [admin@catfishcreek.ca](mailto:admin@catfishcreek.ca)

Website: [www.catfishcreek.ca](http://www.catfishcreek.ca)



Corporation of the

# City of St. Thomas

15

Report No.

ES22-07

File No.

05-014-06

Directed to:

Alderman David Warden, Chair and Members of the Protective Services and Transportation Committee

Date

February 19, 2007

Department:

Environmental Services Department

Prepared By:

Dave White – Supervisor of Roads and Transportation

Attachment

Subject:

Restricted Parking, 2 hour zones – Revision to Schedule III of By-Law No. 45-89

## Recommendation:

It is recommended that:

1. Report No. ES22-07 be received for information; and,
2. The traffic by-law 45-89 Schedule III (Restricted Parking – Two Hour Limit) be amended to correspond with the existing parking signage: "2 hour, 8am-6pm, Mon-Sat".

## Origin

It has recently come to our attention that a significant number of signed 2-hour limit parking zones in the downtown area do not match the text in the By-Law 45-89. This report represents a house keeping exercise that would entail the re-writing of Schedule III of the By-law.

The signs read: 2 hour, 8 A.M. – 6 P.M., < MON – SAT >.

The By-law currently reads: 2 hour, 9:00 a.m. – 6:00 p.m. Monday to Thursday's incl. and Saturdays, 9:00 a.m. – 9:00 pm Fridays.

## Analysis

It is important that the regulatory signage regarding parking restrictions on the street match the By-law text so that the tickets hold up in Court. City By-law staff provides regular enforcement between 8:30am to 4:30pm standard office hours.

The sign message in these parking zones currently work for all involved. The recommendation of this report represent the most cost effective solution that does not negatively affect enforcement and occurs as soon as the By-law is passed by Council and processed by the Clerks Department. In the event that all signs would be replaced, the sign changes could only occur as soon as weather would permit and appropriate funding is in place.

This report has been reviewed with the Clerks staff and they agree that the recommendations in this report will enhance the effectiveness of the enforcement program.

## Financial Considerations

There are no costs associated with the recommendations in this report.

## Alternatives

- Endorse the recommendations in the report and revise the By-law text at no cost.
- Change approximately (200) signs in the field at an estimated \$100.00 each including installation.

Respectfully,

For Dave White, C. Tech - Supervisor of Roads and Transportation  
Environmental Services

Reviewed By:

Treasury

Env Services

Planning

City Clerk

HR

Other



Corporation of the  
**City of St. Thomas**

Report No.

CC 05-07

File No.

**Directed to:** Alderman D. Warden and Members of the Protective Services and Transportation Committee

Date

January 29, 2007

**Department:** Clerk's Department

**Attachments**

- Section 435 - 437, Municipal Act
- Draft Entering on Land By-law

**Prepared By:** Richard Beachey, Deputy City Clerk

**Subject:** By-Law for Entering on Land for the purposes of carrying out inspections

**Recommendation**

That report CC 05-07 in regards to the By-Law for Entering on Land for the purposes of carrying out inspections be received and; further,

That a by-law be forwarded to Council for adoption.

**Origin:**

As a result of recent amendments to the Municipal Act by Bill 130 (assented to December 20, 2006) the City has been enabled the authority to pass a by-law under Section 436 of the Act to allow the City to enter on land (including buildings), without notice, at any reasonable time for the purpose of carrying out an inspection to ensure compliance:

- with a by-law or;
- a direction or order under a by-law of the municipality or;
- a condition of a licence or;
- an order of a court of competent jurisdiction prohibiting the continuation of an offence where a by-law conviction has been entered.

**Analysis**

The Municipal Act amendments describe the right of entry as being very prescriptive in the absence of a by-law establishing the right of entry on land without notice. Without a by-law in place, prior to entry, with limited exception, notice must be provided (Sec. 435 (2)), and such notice must:

- be given to the occupier of the land in respect of which the power of entry will be exercised,
- be given within a reasonable time before the power of entry is exercised,
- be given by personal service in the case of a proposed exercise of a power of entry under section 79, 80 or 446 in respect of a room or place actually used as a dwelling,
- in the case of a proposed exercise of a power of entry other than one described in paragraph 3, the notice must be given by personal service or prepaid mail or by posting the notice on the land in a conspicuous place.

For the purposes of enforcement and continuing past practice of entering on land without notice, a by-law under the new provision is required.

It must be noted that in the case of dwellings either the consent of the occupier must be provided or a court order or warrant is obtained (Sec. 437) for the purposes of entry. This new requirement has not changed past practice where by-law staff has not entered a dwelling without the consent of the occupier.

**Financial Considerations:**

None that can be seen.

**Alternatives:**

The Committee may:

1. Proceed with the By-Law.
2. Not proceed with the By-Law.

Respectfully,



Richard Beachey, Deputy City Clerk  
City Clerk's Department

Reviewed By:

Treasury

Env Services

Planning

City Clerk

HR

Other



## CITY OF ST. THOMAS

BY-LAW NO. \_\_\_\_-2007

A By-law of The Corporation of the City of St. Thomas, being a by-law to authorize the entry on land, without notice, at any reasonable time for the purpose of carrying out an inspection.

WHEREAS Section 435 (1) (4) (i) of the *Municipal Act*, S.O. 2001, c.25, as amended, provides that notice of the proposed entry on land shall be provided to the occupier of the land except where the entry is authorized under Section 436.

AND WHEREAS Section 436 (1) of the *Municipal Act*, S.O. 2001, c.25, as amended, authorizes a municipality to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

1. A by-law of the municipality passed under this Act.
2. A direction or order of the municipality made under this Act or made under a by-law of the municipality passed under this Act.
3. A condition of a licence issued under a by-law of the municipality passed under this Act.
4. An order made under section 431.

AND WHEREAS the Council of the City of St. Thomas deems it necessary for the efficient, effective and economical enforcement of its by-laws to enact a by-law authorizing the municipality to enter on land at any reasonable time, without notice, for the purpose of carrying out an inspection.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF ST. THOMAS ENACTS AS FOLLOWS:**

## **1.0 SHORT TITLE**

- 1.1 This By-Law shall be cited as the Enter on Land By-law.

## **2.0 DEFINITIONS AND INTERPRETATION**

- 2.1 In this By-law, unless the context otherwise requires:
  - a) "Act" means the *Municipal Act*, S.O. 2001, c.25, as amended.
  - b) "Council" means the elected Council of the Corporation of the City of St. Thomas.
  - c) "Land" includes buildings.
  - c) "Municipality" means the Corporation of the City of St. Thomas, and shall include an employee, officer or agent of the Corporation of the City of St. Thomas or a member of the police force of the Corporation of the City of St. Thomas.

## **3.0 GENERAL PROVISIONS**

- 3.1 The municipality is authorized to enter on land at any reasonable time, without notice, for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
  - (a) A by-law of the municipality passed under the Act, or;

- (b) A direction or order of the municipality made under the Act or made under a by-law of the municipality passed under the Act, or;
- (c) A condition of a licence issued under a by-law of the municipality passed under the Act, or;
- (d) An order made under section 431 of the Act.

3.2 For the purposes of an inspection the municipality may,

- (a) require the production for inspection of documents or things 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.

3.3 A sample taken under clause 3.2 (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.

3.4 If a sample is taken under clause 3.2 (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.

3.5 A receipt shall be provided for any document or thing removed under clause 3.2 (b) and the document or thing shall be promptly returned after the copies or extracts are made.

3.6 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.

3.7 Nothing in this by-law shall be interpreted as allowing the municipality to enter or remain in any room or place actually being used as a dwelling unless either the consent of the occupier is provided or a court order or warrant is obtained for the purposes of entry.

#### **4.0 SEVERABILITY**

4.1 If a court of competent jurisdiction should declare any section of this By-law, or part thereof, to be invalid, such section or part thereof is deemed severable from this By-law and shall not be construed as having influenced Council to pass the remainder of this By-law and it is the intention of Council that the remainder of this By-law shall survive and remain in force.

#### **5.0 ENACTMENT**

5.1 This By-Law shall come into full force and effect upon the day of final passage thereof.

READ a First and Second time this 19th day of February, 2007.

READ a Third time and Finally passed this 19th day of February, 2007.

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Wendell Graves, City Clerk

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Cliff Barwick, Mayor

## POWERS OF ENTRY

## Conditions governing powers of entry

435. (1) Unless otherwise provided in this Act, in an order under section 438 or in a warrant under section 439, the following conditions apply to the exercise of a power of entry of a municipality under this Act:

1. The power of entry shall be exercised by an employee, officer or agent of the municipality or a member of the police force of the municipality.
2. The person exercising the power must on request display or produce proper identification.
3. The person exercising the power may be accompanied by a person under his or her direction.
4. Notice of the proposed entry shall be provided to the occupier of the land, except,
  - i. where the entry is authorized under section 436, clause 437 (a) or (e) or section 439,
  - ii. where the entry is authorized under section 438 in respect of a premises other than a room or place actually used as a dwelling,
  - iii. where entry is authorized onto land under section 62, 87 or 97 or Part XI, or
  - iv. where the delay necessary to give notice of the entry would result in an immediate danger to the health or safety of any person.
5. The municipality 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,
  - i. is under section 446, or
  - ii. 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.

## Notice

(2) Where subsection (1) requires that notice of a proposed exercise of a power of entry be given, the notice must satisfy the following requirements:

1. The notice must be given to the occupier of the land in respect of which the power of entry will be exercised.
2. The notice must be given within a reasonable time before the power of entry is exercised.
3. The notice must be given by personal service in the case of a proposed exercise of a power of entry under section 79, 80 or 446 in respect of a room or place actually used as a dwelling.
4. In the case of a proposed exercise of a power of entry other than one described in paragraph 3, the notice must be given by personal service or prepaid mail or by posting the notice on the land in a conspicuous place.

## Power of entry re inspection

436. (1) A municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

1. A by-law of the municipality passed under this Act.
2. A direction or order of the municipality made under this Act or made under a by-law of the municipality passed under this Act.
3. A condition of a licence issued under a by-law of the municipality passed under this Act.
4. An order made under section 431.

## Inspection powers

(2) By-laws passed under subsection (1) may provide that for the purposes of an inspection the municipality may,

- (a) require the production for inspection of documents or things 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.

## Samples

(3) A sample taken under clause (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.

## Same

(4) If a sample is taken under clause (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.

## Receipt

(5) A receipt shall be provided for any document or thing removed under clause (2) (b) and the document or thing shall be promptly returned after the copies or extracts are made.

## Evidence

(6) 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.

**Restriction re dwellings**

437. Despite any provision of this Act, a person exercising a power of entry on behalf of a municipality under this Act 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, a warrant issued under section 439 or a warrant under section 386.3;
- (b) an order issued under section 438 is obtained;
- (c) a warrant issued under section 439 is obtained;
- (d) a warrant issued under section 386.3 is obtained;
- (e) the delay necessary to obtain an order under section 438, to obtain a warrant under section 439 or to obtain the consent of the occupier would result in an immediate danger to the health or safety of any person; or
- (f) the municipality has given notice of its intention to enter to the occupier of the land as required under subsection 435 (2) and the entry is authorized under section 79, 80 or 446.



January 3, 2007

# St. Anne's Community Festival

"Helping Others in OUR Community!"

20 Morrison Drive, St. Thomas, Ontario N5R 4S6

Telephone: (519) 631-3640

Fax: (519) 631-7938

City of St. Thomas  
Received

FEB 06 2007

Mr. W. Graves, City Clerk  
City of St. Thomas  
P.O. Box 520, City Hall  
St. Thomas, Ontario N5P 3V7

Dear Mr. Graves:

The 36th Annual St. Anne's Community Festival is to take place on June 6,7,8,9, 2007 on the grounds of the Parish.

All of the necessary conditions to hold the annual event will be adhered to as in former years, and we hope it will be as successful and smooth-running as in former years.

The Alcohol and Gaming Commission of Ontario requires us to apply for a temporary extension of our existing liquor licence for a beer tent which will be attached to the restaurant tent which is adjacent to our licenced area (The Centre). The beer tent will be open on Wednesday, Thursday and Friday from 4:00 p.m. until midnight and on Saturday from 12:00 noon until midnight. The beer tent will be 46' x 52' and will have the capacity to hold 120 persons at any one time.

Will you please send us a letter of authorization from the city stating that you have no objection to the St. Anne's Community taking place; and no objection to the extension of our proposed extended licensed area, so that we may send it with the application to Toronto.

Thank you for your attention to this matter.

Yours truly,

Rev. Rick Dales  
St. Anne's Community Festival

RD:cf

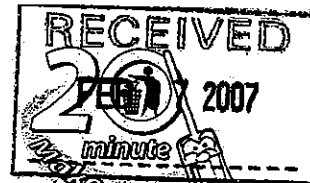
REFERRED TO	
SPECIAL EVENTS COMMITTEE	
FOR	
DIRECTION	<input type="checkbox"/>
REVIEW FOR COMMENT	<input checked="" type="checkbox"/>
INFORMATION	<input type="checkbox"/>
FROM MARIA KONEFAL	



*Cancel* 24

City of St. Thomas  
Received

FEB 07 2007



PITCH-IN CANADA!

c/o National Office, PITCH-IN CANADA  
Box 45011, Ocean Park P.O.  
White Rock, B.C., V4A 9L1

Voicemail: 1-877-4-PITCH-IN  
email: pitch-in@pitch-in.ca  
www.pitch-in.ca

*Dear Members of Council,*

**How do PITCH-IN Programs – including PITCH-IN CANADA WEEK - benefit your community?**

★ Tons of garbage removed ★ Parks ravines, neighbourhoods, streets, business areas cleaned-up ★  
Illegal dumpsites removed ★ Habitats restored – all done **FOR FREE** in 2006 by 387,123 PITCH-IN  
volunteers in 6,840 clean-up/beautification projects in hundreds of communities throughout Ontario. A  
\$35 million donation in labour by PITCH-IN volunteers– every year!

**Who funds PITCH-IN?** We are a non-profit charitable campaign, not provincially funded. 70% of our  
\$147,000 annual budget comes from sponsors; the rest, \$44,000, is meant to come from Ontario's 500+  
municipalities combined - including you – the beneficiaries of the hard work of PITCH-IN volunteers.

**Do we operate on a 'bloated' budget?** You decide: our province-wide budget of \$147,000 includes  
the cost of all the free materials which we ship to PITCH-IN Coordinators (540 in 2006) who plan and  
implement local projects and to the more than 14,000 groups, including 5,000 schools, who access our  
free year-round educational materials and programs. It also covers our comprehensive website, staff  
and all overhead. We work with schools and volunteers year-round.

**Does \$95\* per year to become a Municipal Partner of PITCH-IN ONTARIO (\*population-based fee) –  
provide you with value?** You receive: ☒ campaign logos; ☒ free garbage bags for volunteers; ☒ an  
Action Plan to organize PITCH-IN Week and the 20-Minute Makeover program; ☒ free promotional  
DVDs; ☒ a comprehensive year-round waste management program; ☒ workshops for communities to  
share ideas that work; ☒ free access to our national recognition program (\$750+ value); ☒ PITCH-IN  
Flag at cost (\$79) – only available to Patrons; ☒ and more! Can you duplicate these services for less?

**Time is running out.** We have received one-time short-term 'bridge funding' from The Trillium  
Foundation to give us some time to increase the number of Municipal Partners of PITCH-IN. In 2006 the  
number of PITCH-IN projects doubled and the number of local PITCH-IN Coordinators increased by  
53%! PITCH-IN deserves your support – and it is a good investment in volunteers in your community.

**Our 2007 PITCH-IN WEEK program is now underway.** Many groups, schools, and the media in your  
community have received information about 2007 PITCH-IN WEEK and how they can receive free  
PITCH-IN materials to assist them.

**Support your PITCH-IN volunteers – please become a Municipal PITCH-IN Partner!**

Sincerely

*Alice Johnson*

Volunteer Chair, PITCH-IN ONTARIO

PLEASE TURN OVER..... ➔

**OFFICIAL SPONSORS OF PITCH-IN Week: OPERATION: Clean Sweep in Ontario**



SUNCOR  
ENERGY  
FOUNDATION



LA FONDATION  
TRILLIUM  
DE L'ONTARIO

# Support PITCH-IN Week and Launch 25 a Year-Round Litter Control / Waste Management Program involving Partners in your Community!

- **Appoint a local PITCH-IN CANADA Week coordinator:** identify clean-up and beautification projects. Register your community no later than **March 15, 2007**.
- **Support local voluntary efforts:** offer assistance with, and access to free, waste disposal.
- **Recognize PITCH-IN volunteers** - a gesture much appreciated by them!
- **Issue a Proclamation and affix PITCH-IN decals to all your litter-receptacles:** *sample Proclamation on our website at [www.pitch-in.ca](http://www.pitch-in.ca) - please send us a copy!*
- **Send 'Thank You' letters to our sponsors:** outline your contribution. *Sponsor information is on our Registration Form. Send your letters to us please and we'll include them in our final report.*
- **Fly the PITCH-IN Week Flag to promote the campaign** – makes for a great media kick-off! Flags available to all PITCH-IN CANADA Patrons / members.
- **Set up a year-round litter control + beautification program.** We can provide The Civic Pride Program, a detailed year-round program that involves all of your community. Resources we supply include: DVD, Program Manual, PowerPoint presentations and much more!
- **Receive recognition** - become a Bronze, Silver or Gold Level *Civic Pride Community*. Check our website for details about The National Civic Pride Recognition Program.

## PITCH-IN CANADA Week Flag

Flying the PITCH-IN Week Flag will show that your community supports its PITCH-IN volunteers and cares about keeping your community – and Canada – Clean and Beautiful.



**36" X 72"**

**2 colors**

**Only \$75!**

Flags are available to Patron and Member Municipalities for only \$75. We will ensure the flag reaches you before PITCH-IN Week so you can 'kick-off' your PITCH-IN Week or 20-Minute Makeover with an official "Flying the PITCH-IN Flag" ceremony!

Name of Community.....

Mailing Address.....

City/Town/Village.....Province.....Postal Code.....

Telephone (.....)..... Fax (.....).....Contact Person.....

Email ..... Website [www](http://www).....

### Check off one of the following boxes:

☐ We are current Patrons/Members of PITCH-IN

☐ We want to become Patrons/Members and have enclosed our completed Application Form

Membership Fee Enclosed (*see enclosed chart*)

\$.....

Flag: we want to order \_\_\_\_\_ flag at a cost of \$75 and enclose

\$.....

**We need an invoice**, Our Purchase Order Number is ..... (*please attach PO*)

### Send to PITCH-IN CANADA:

*c/o National Office, Box 45011, Ocean Park PO, WHITE ROCK, BC, V4A 9L1*





**ST. THOMAS ECONOMIC DEVELOPMENT  
CORPORATION**

**EXTRACT FROM THE MINUTES OF the second meeting of the Board of Directors  
HELD ON February 12, 2007.**

**TO: Wendell Graves, City Clerk**

**Highbury Industrial Park Design Principles – Appendix “F”**

The Members were supplied with a report from the General Manager with the proposed Design Principles for the Highbury Industrial Park attached. The following motion was presented.

Motion by Alderman Johnston – Mr. Broome:

THAT: The Design Principles as attached to this report be recommended to City Council for consideration and adoption as part of the criteria to be considered in the sale of lands in the Highbury Industrial Park.

Carried.

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Secretary

To: Mr. Al Riddell, President and Directors of the  
St. Thomas Economic Development Corporation

Date: January 31, 2007

From: Robert H. Wheeler, General Manager

Subject: Highbury Industrial Park – Design Principles

Attachment(s): Design Principles

**Recommendation**

That the Design Principles as attached to this report be recommended to City Council for consideration and adoption as part of criteria to be considered in the sale of lands in the Highbury Industrial Park.

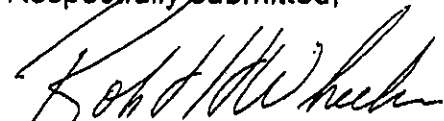
**Report**

Servicing is well underway in the Highbury Industrial Park with the installation of water mains, sanitary sewers and storm sewers. A road base of recycled asphalt will be follow and we will be able to drive onto the road to show clients by mid March subject to weather conditions. Barriers will be erected at both ends of the road to restrict access to it until such time as building is underway. The barriers will be constructed so that they can be removed to allow us access onto the property.

The purpose of this report is to provide the Board and in turn, City Council, with suggestions for site and building design in the Industrial Park. We have reviewed a number of different design parameters of other communities and we believe that the ones which we are suggesting are appropriate and will provide for a better quality of development than if they were not to be included. By the implementation of these design principles, we are restricting the use to what the lands can put to so as to not have large amounts of land taken up with warehousing uses which generate lower levels of employment and reduced assessment. We are also providing increased lot coverage requirements where the minimum standards today provide for a coverage of 11.5%. We are also requiring that where the walls of a building face onto a street that there be provision for a decorative finish so as to not simply have a wall totally of prefinished steel. Staff is prepared to discuss in further any of these standards with the Board.

These standards have been reviewed in detail with the members of the City's Management Board which include amongst others, the City Planning Director and the City Engineer. The Management Board is in concurrence with the design principles as attached.

Respectfully submitted,



Robert H. Wheeler  
General Manager

28  
Highbury Industrial Park

Design Principles

1. Warehousing shall only be permitted as an accessory use to Manufacturing in the M2 zone. In the M2 zone the only use permitted, subject to the aforementioned shall be manufacturing. In the M4 zone the only uses permitted shall be Light Manufacturing and Assembly, Warehousing, Printing Business, Packaging Business, Pharmaceutical and Medical Product Industry, Repair and Custom Workshop
2. The minimum lot coverage shall be increased from 5,000 sq. ft. per acre (11.5%) to 6,534 sq. ft. per acre (15%) for sites up to 15 acres. For sites greater than 15 acres the minimum lot coverage shall be 8,712 sq. ft. per acre (20%).
3. The exterior of the wall or walls of any building or structure facing any municipal street shall not be constructed of any materials other than brick, decorative concrete block, stone or glass construction, provided that the following facing materials may be used to a maximum of 40% of the total surface area of each wall; stainless steel; decorative glazed terra cotta; ceramic veneer; precast stone or concrete panel; aluminum; bronze; steel with a protective glazed enamel or porcelain finish.
4. All electrical and telephone connections and wires to buildings facing streets shall be by an underground service from the nearest pole line.
5. All driveway ramps, driveways and parking areas located between the front face of the building and the street shall be paved with asphalt.
6. The area between the front face of the building and the property line shall be landscaped with the exception of those areas used for driveways, driveway ramps and parking areas.

