

THE CORPORATION OF THE MUNICIPALITY OF PORT HOPE

BY-LAW NO. 02-2024

Being a By-law to provide for the administration and enforcement of the Building Code Act and with respect to the establishment and requirement of the payment of fees for information and services in the Municipality of Port Hope.

Whereas, Section 3.(1) of the Building Code Act, S.O. 1992, c.23, as amended, provides that the council of each municipality is responsible for the enforcement of the Building Code Act, 1992, as amended, in the municipality;

And whereas Section 7 of the Building Code Act, S.O. 1992, c.23, as amended, empowers council to pass By-laws respecting permits for construction, demolition, occupancy, change of use, on-site sewage system and conditional permits and respecting inspections and the charging of permit fees and other related matters;

And whereas Section 7 of the Building Code Act, S.O. 1992, c.23, as amended, empowers council to pass By-laws to establish an On-site Sewage System Maintenance Inspection Program and the charging of service fees for the recovery of costs associated with the administration of said program;

Now therefore be it resolved that the Council of the Municipality of Port Hope enacts as follows:

Part 1: Citation

- 1.01 This By-law may be cited as the “Building By-law”.
- 1.02 All references made within this By-law shall be found within this By-law unless otherwise noted.

Part 2: Definitions

- 2.01 “Act” means the Building Code Act, S.O. 1992, c. 23, as amended.
- 2.02 “Alternative Solution” means a substitute for an acceptable solution as set out in Parts 3 to 12 of Division B of the Building Code.
- 2.03 “Applicable Law” means the list of applicable laws as prescribed by the Building Code.
- 2.04 “Applicant” means the owner of a building or property who applies for a permit or any authorized agent to apply for a permit on the owner’s behalf or any person or corporation empowered by statute to cause the construction or demolition of a building or buildings and anyone acting under the authority of that person or corporation.
- 2.05 “Authorized agent” means a person who has been authorized in writing to act on the owner’s behalf for matters relating to an application for a permit.
- 2.06 “As constructed plans” means construction plans and specifications that show the building and the location of the building on the property as the building has been constructed.
- 2.07 “Building” means that as described by the Act.
- 2.08 “Building Code” means regulations made under Section 34 of the Act and any amendments thereto.

- 2.09 “Chief Building Official” means the officer or employee of the Municipality of Port Hope appointed by the Corporation with the duty of administering the provisions of the Ontario Building Code and this By-law.
- 2.10 “Corporation” means The Corporation of the Municipality of Port Hope.
- 2.11 “Farm building” means a building or part thereof which does not contain a residential occupancy, and which is associated with and located on land devoted to the practice of farming and used essentially for the housing of equipment or livestock, or the production, storage or processing of agricultural and horticultural produce or feeds.
- 2.12 “Form” means the applicable provincial or municipal prescribed document.
- 2.13 “Inspector” means a person appointed by By-law, by the Corporation of the Municipality of Port Hope for purposes of enforcement of the Act and who’s roles are set out in the Act.
- 2.14 “Owner” means the registered owner of the land or property for which a permit application is submitted, a permit has been issued or that contains an on-site sewage system for the purposes of the Maintenance Inspection Program and includes the registered owner, a lessee and mortgagee in possession.
- 2.15 “Permit” means permission or authorization in writing by the Chief Building Official to perform work or to occupy a building or part thereof, as regulated by the Act and the Building Code.
- 2.16 “Permit holder” means the owner to whom the permit has been issued or, where the permit has been transferred, the transferee, and shall be the person who assumes the primary responsibility for compliance with the Act and the Building Code.
- 2.17 “Registered Code Agency” means a person that has the qualifications and meets the requirements described in subsection 15.11(4) of the Act.
- 2.18 “Work” means the construction or demolition of a building or part thereof and includes a change of use as regulated by the Building Code.

Any words or phrases used in this By-law which are defined in the Building Code shall be deemed to have an equivalent meaning in the context in which they are used.

Part 3: Classes of Permits

The classes of permits with respect to construction, demolition, change of use and occupancy are described as follows:

- 3.01 “Construction Permit” is a permit required under Subsection 8. (1) of the Act for the construction of buildings and parts of buildings.
- 3.02 “Demolition Permit” is a permit required under Subsection 8. (1) of the Act for the removal of a building.
- 3.03 “Conditional Permit” is a permit authorized under Subsection 8. (3) of the Act for the construction of buildings or parts of buildings that may be issued at the sole discretion of the Chief Building Official.
- 3.04 “Change of Use Permit” is a permit required under Subsection 10. (1) of the Act where a change in use of a building or part of a building would result in an increase in hazard as determined under Division C, Article 1.3.1.4. of the Building Code where no construction is proposed.

- 3.05 “Occupancy Permit” is a permit required to occupy a building or part of a building in accordance with the requirements of Division C, Subsection 1.3.3. of the Building Code.

Part 4: Application for Permits

- 4.01 To obtain a permit, the owner or an authorized agent shall submit the applicable prescribed permit application form to the Chief Building Official.
- 4.02 All forms prescribed by the Building Code and the Chief Building Official are available at the Province of Ontario, the office of the Chief Building Official or the Corporation’s website.
- 4.03 Where an application is made for a Construction Permit under Subsection 8.(1) of the Act, the application shall:
- a) Include a completed permit application form as prescribed by the Building Code;
 - b) Be accompanied by the plans and specifications prescribed by this By-law and any associated information or approvals required to demonstrate compliance with any applicable law;
 - c) Identify and describe the work and use to be covered by the permit for which application is made;
 - d) Be accompanied by all fees as specified in the Fees and Charges By-law Schedule “D”;
 - e) State the names, addresses, telephone numbers, fax numbers and email addresses of the owner, applicant, architect, professional engineer, designer, contractor, installer or constructor, where applicable;
 - f) Be accompanied by a completed Commitment to General Reviews form as prescribed by the Chief Building Official when the Architects Act, as amended, and/or the Professional Engineers Act, as amended, requires the designer be an architect and/or a professional engineer; and
 - g) Include completed forms as deemed required and prescribed by the Chief Building Official.
- 4.04 Where an application is made for a Demolition Permit under Subsection 8.(1) of the Act, the application shall:
- a) Include a completed permit application form as prescribed by the Building Code;
 - b) Be accompanied by the plans and specifications prescribed by this By-law and any associated information or approvals required to demonstrate compliance with any applicable law;
 - c) Be accompanied by all fees as specified in the Fees and Charges By-law Schedule “D”;
 - d) State the names, addresses, telephone numbers, fax numbers and email addresses of the owner and of the Architect, professional engineer, designer, contractor or constructor, where applicable;

- e) Be accompanied by a completed Commitment to General Reviews form as prescribed by the Chief Building Official when the Building Code requires a professional engineer to undertake the general review of the demolition; and
- f) Be accompanied by proof satisfactory to the Chief Building Official that arrangements have been made with the proper authorities, where applicable, for the disconnection and capping of all water, sewer, gas, electric, telephone or other utilities and services on a form prescribed by the Chief Building Official.

4.05 Where application is accepted at the discretion of the Chief Building Official for a Conditional Permit under Subsection 8.(3) of the Act, the application shall:

- a) Be preceded by an application for a Construction Permit set out in 3.3. and filed with the Chief Building Official;
- b) Be accompanied by the plans and specifications prescribed by this By-law and any associated information or approvals required to demonstrate compliance with any applicable law;
- c) Include a completed Conditional Permit application form as prescribed by the Chief Building Official;
- d) State in writing to the Chief Building Official the reasons why the applicant believes that unreasonable delays in construction would occur if a conditional permit is not granted;
- e) State the necessary approvals which must be obtained in respect of the proposed building and the date or time by which such approvals will be obtained;
- f) Be accompanied by a Conditional Permit Agreement form, authorized by Clause 8.(3)(c) of the Act, which must be signed by the owner or an authorized agent who has the authority to bind the owner;
- g) In the event that the conditions have not been satisfied beyond the date that is prescribed in a Conditional Permit Agreement, the agreement shall be considered as expired, all work shall stop and a request for an extension shall be made by the permit holder;
- h) Be accompanied by a security deposit under the terms of the Conditional Permit Agreement; and
- i) In addition to fees prescribed for the Construction Permit application, be accompanied by all Conditional Permit fees that are set out in the Fees and Charges By-law.

4.06 Consideration of an application for Conditional Permit is at the sole discretion of the Chief Building Official and, if considered, shall not be construed to authorize construction beyond the scope for which conditional approval is given or that a Construction Permit will necessarily be issued.

4.07 Where application is made for a Change of Use Permit issued under Subsection 10.(1) of the Act, the application shall:

- a) Include a completed permit application form as prescribed by the Chief Building Official;
- b) Be accompanied by the plans and specifications prescribed by this By-law and any associated information or approvals required to demonstrate compliance with the Building Code and any applicable law;
- c) Describe the building in which the occupancy is to be changed by a description that will readily identify and locate the building;
- d) Identify and describe in detail the current and proposed occupancies of the building or part of a building for which the application is made;
- e) Include plans and specifications which show the current and proposed occupancy of all parts of the building and which contain enough information to establish compliance with the requirements of the Building Code, including, but not limited to, floor plans, details of wall, ceiling and roof assemblies identifying required fire resistance ratings and load bearing capacities and details of the existing on-site sewage system, if any;
- f) Be accompanied by a report from a qualified person as prescribed by the Building Code confirming that the change of use will not result in an increase in hazard;
- g) Be accompanied by all fees as specified in the Fees and Charges By-law Schedule "D"; and
- h) State the name, address, telephone number, fax number and email address of the owner.

4.08 To obtain an Occupancy Permit as required by Division C, Subsection 1.3.3. of the Building Code, the owner or authorized agent shall:

- a) Notify the Chief Building Official of the of completion of construction required to permit the occupancy of a building;
- b) Describe the part of the building for which occupancy is requested;
- c) Submit plans showing portion(s) of the floor area(s) to be occupied complete with location(s) of temporary exits as applicable;
- d) Submit all general review reports where the Building Code requires the construction to be reviewed by an architect and/or a professional engineer; and
- e) Submit a bacteria indicator test report where the building utilizes an on-site private water system.

4.09 A building shall not be occupied, permitted to be occupied or commissioned into service without the written authorization from the inspector:

Part 5: Plans and Specifications-General

5.01 Sufficient information shall be submitted with each application for a permit to enable the Chief Building Official to determine whether the proposed construction, demolition or change of use will conform to the Act, the Building Code, this By-law and any other applicable law.

- 5.02 Each application for a Construction, Demolition, Change of Use Permit or Conditional Permit shall be accompanied by one (1) complete set of the plans and specifications.
- 5.03 Plans shall be drawn to a suitable and legible scale (minimum 1:75 or 3/16"=1'-0") on paper or other durable medium approved by the Chief Building Official and shall include information as specified by the Chief Building Official.
- 5.04 At the discretion of the Chief Building Official, submission of digital drawings, designs and specifications may be considered where:
- a) The file is formatted to print on not greater than tabloid (11x17) size paper to retain the original scale of the document; and
 - b) The format of the digital file is suitable to the Corporation.

Part 6: Incomplete Application

- 6.01 Except as provided in Part 6.02 of this By-law, a permit application that does not meet all of the applicable requirements of Part 4 of this By-law shall be denied without further review.
- 6.02 Where the Chief Building Official determines that a permit application is incomplete, the Chief Building Official may accept the application if the applicant acknowledges that the application is incomplete.
- 6.03 Where an applicant declares or acknowledges that a permit application is incomplete, the Chief Building Official shall not be bound by the timelines prescribed by the Building Code within which a permit must be issued or refused.
- 6.04 The applicant shall be notified in writing where a review by the Chief Building Official or inspector has determined information is missing or non-compliant with any provisions of the Act, Building Code or this By-law.
- 6.05 Where it is determined that the applicant has not made satisfactory progress to submit required information within 30 days of being notified by the Chief Building Official or inspector, written notice thereof shall be given to the applicant.
- 6.06 If an incomplete application is deemed to be abandoned as determined by the Chief Building Official, a new application must be submitted as set out in Part 4 for all proposed work.

Part 7: Withdrawing a Permit Application

- 7.01 A permit holder may request, in writing, that an application for permit be withdrawn prior to issuance of a permit.
- 7.02 All plans, specifications and documents submitted in support of an application for permit shall remain the property of the Corporation.

Part 8: Revocation of Permit

- 8.01 Prior to revoking a permit under Subsection 8.(10) of the Act, the Chief Building Official may serve a notice to the last known address to the permit holder, and, following a 30 day period from the date of service, may revoke the permit without further notice.

- 8.02 The Chief Building Official may consider a written request by the permit holder to defer revocation of a permit if the request:
- a) Is received by the Chief Building Official prior to the end of the 30 day period described in Part 8.01; and
 - b) States the reasons why the permit should not be revoked and the date by which meaningful and substantial work will resume.
- 8.03 The Chief Building Official, having regard to any material changes to the Act, Building Code or other applicable law, may allow a deferral of revocation of a permit.
- 8.04 Subject to Section 25 of the Act, the Chief Building Official is under no obligation to defer revocation of a permit.

Part 9: Revisions

- 9.01 Where the design or scope of work authorized by an issued permit changes, the owner shall submit sufficiently detailed and revised plans and specifications, as set out in Part 5, that describe the proposed work prior to carrying out the proposed work.
- 9.02 Sufficient material changes to the design or scope of work may constitute the need for a new application for permit as determined by the Chief Building Official.
- 9.03 A revision to a permit application, or an issued permit shall be accompanied by all fees as specified in the Fees and Charges By-law Schedule "D".

Part 10: Transfer of Permit

- 10.01 An issued permit may be transferred to a new owner by the Chief Building Official where the new owner provides:
- a) A completed Transfer of Permit form prescribed by the Chief Building Official;
 - b) A written statement agreeing to comply with all statutes, regulations, applicable laws and conditions of approval upon which the permit was issued;
 - c) A written statement from the designer authorizing the continued use of all drawings, specifications and documents associated with the issued permit;
 - d) A completed Commitment to General Reviews form as prescribed by the Chief Building Official when the Building Code requires the work be reviewed by an architect or a professional engineer; and
 - e) Payment of fees for transfer of permit as specified in the Fees and Charges By-law Schedule "D".

Part 11: As Constructed Plans and Documents

- 11.01 On completion of the construction, the Chief Building Official may require:
- a) A set of as constructed plans be filed with the Chief Building Official; and/or;

- b) A plan of survey showing the location of the building or buildings.
- 11.02 As set out in Section 18 of the Act, an inspector may require information, including plans, specifications, reports or documents, from any person in order to confirm compliance with any Building Code and/or applicable law requirement.

Part 12: Alternative Solutions

- 12.01 The Chief Building Official may authorize the use of an alternative solution where a designer provides, for each alternative solution that is proposed:
- a) A completed Alternative Solution Application form as prescribed by the Chief Building Official;
 - b) A description of the proposed material, system or building design for which authorization as an alternative solution is requested;
 - c) A description of the applicable objectives, functional statements and acceptable solutions as set out in the Building Code;
 - d) Supporting documentation, past performance or tests described in Division C, Section 2.1. of the Building Code or other evaluation demonstrating that the proposed material, system or building design will provide the level of performance required by Division A, Article 1.2.1.1. of the Building Code; and
 - e) The fee as specified in the Fees and Charges By-law Schedule “D”.
- 12.02 Where an alternative solution has been authorized, the Chief Building Official may impose conditions and/or limitations.
- 12.03 Alternative solutions authorized by the Chief Building Official shall be applicable only to the location as described in the application and are not transferrable to any other permit.

Part 13: Fees

- 13.01 Fees shall be determined by the Chief Building Official as specified in the Fees and Charges By-law Schedule “D” and are due and payable by the applicant upon submission of an application for permit in addition to any development charges, levies and fees that are deemed to be applicable law.
- 13.02 For classes of permits not described in Part 4 or where no fee exists in the Fees and Charges By-law, a reasonable fee shall be determined by the Chief Building Official by considering all administration, plan review and inspection costs.
- 13.03 Where fees are due as a result of revisions after a permit has been issued, no inspections associated with the said revisions shall be passed until:
- a) The revisions are approved by the Chief Building Official or inspector; and
 - b) Additional fees have been paid in full, if applicable.
- 13.04 Where work occurs prior to the issuance of a permit, an additional surcharge equalling 100% of the permit fee described in this Part to a maximum of \$5,000, shall be payable by the applicant.

- 13.05 The permit fees as specified in the Fees and Charges By-law presumes a single submission of complete plans and specifications and a single inspection of each prescribed stage of construction as set out in the Building Code and this By-law. Additional service fees as specified in the Fees and Charges By-law shall be invoiced when additional resources to review additional drawings and/or to re-inspect work are consumed.

Part 14: Refunds

- 14.01 In the case of a cancelled permit or withdrawn, inactive or abandoned permit application, the Chief Building Official shall determine the amount of paid fees that may be refunded to the applicant, as follows:
- a) 90% if administrative functions only have been performed;
 - b) 80% if administrative and zoning functions only have been performed;
 - c) 60% if administrative, zoning and plans examination functions have been performed; and
 - d) 50% if the permit has been issued.
- 14.02 Upon calculation of a refund determined in Part 14.01, the refund value shall be reduced by 5% for each field inspection that has been performed in relation to an application for permit or an issued permit.
- 14.03 The percentage of fee to be refunded as determined in Parts 14.01 and 14.02 shall not include the additional surcharge as specified in Part 13.04.
- 14.04 Any authorized refund shall be returned to the person identified on the receipt.
- 14.05 The occupancy deposit fee shall be refunded to the person identified on the receipt provided all construction is complete, inspected and passed within 6 months of the building being occupied or the occupancy permit being issued, whichever occurs first.
- 14.06 A deposit that has been paid for an application for Demolition Permit shall be refunded to the person identified on the receipt where inspections confirm the following within 6 months of issuance of the permit:
- a) The demolition of the building is complete;
 - b) All general review letters, where required, have been received by the Chief Building Official;
 - c) All demolition material and debris has been removed from the property;
 - d) Capped water and sewer services have been inspected and passed.

- 14.07 No refund shall be made where the paid permit fee is less than \$100.00.

Part 15: Recovery of Fees

- 15.01 In addition to every other remedy available at law, fees that are due and unpaid may be added to the tax roll of the property of the owner and may be collected in like manner as municipal taxes.

Part 16: Fee Adjustments

- 16.01 Immediately upon release of the Consumer Price Index by Statistics Canada, all services fees as specified set out in the Fees and Charges By-law shall be adjusted by the Consumer Price Index and shall be;
- a) Rounded to the nearest cent where the fee is based on an area or linear measurement calculation; and
 - b) Rounded to the nearest dollar for all other fees.
- 16.02 Adjusted fees shall be posted on the Corporation's website and available from the Building Division.

Part 17: Notices and Inspections

- 17.01 The permit holder or an authorized agent shall notify the Chief Building Official of readiness to inspect the required stages of construction as prescribed by Division C, Sentence 1.3.5.1.(2) of the Building Code.
- 17.02 In addition to Part 17.01, the permit holder or an authorized agent shall notify the Chief Building Official of readiness to inspect the following stages of construction as prescribed by Division C, Sentence 1.3.5.2.(1) of the Building Code:
- a) Commencement of construction of the building;
 - b) Substantial completion of structural framing for each storey, if the building is a type of building that is within the scope of parts of the Building Code other than Division B, Part 9;
 - c) Commencement of construction of;
 - i. masonry fireplaces and masonry chimneys;
 - ii. factory-built fireplaces and allied chimneys; or
 - iii. stoves, ranges, space heaters and add-on furnaces using solid fuels and allied chimneys;
 - d) Substantial completion of heating, ventilating, air-conditioning and air-contaminant extraction equipment;
 - e) Substantial completion of exterior cladding;
 - f) Substantial completion of the pool deck and dressing rooms for a public pool or public spa and readiness for inspection of the emergency stop system for a public pool or public spa;
 - g) Completion and availability of drawings of the building as constructed; and
 - h) Completion of a building for which an occupancy permit is required under Division C, Article 1.3.3.4 of the Building Code.
- 17.03 The notice required in Parts 17.01 and 17.02 shall be:
- a) Emailed to "buildingservices@porthope.ca"; or
 - b) By voice message to the Building Division's dedicated inspection request phone line as published on the Municipality's website; or

- c) In writing to the office of the Chief Building Official.
- 17.04 A notice pursuant to Parts 17.01 to 17.03 is not effective until the notice is received by the Chief Building Official or designate.
- 17.05 Upon receipt of notice of readiness to inspect as set out in this Part, the Chief Building Official or an inspector shall undertake a site inspection:
 - a) No later than two (2) business days after receipt of the notice by the Chief Building Official, or
 - b) Any other time mutually agreed upon by the Chief Building Official and the person to whom the permit was issued, or a person authorized to act on their behalf.
- 17.06 The time period referred to in Part 17.05 shall begin on the business day following the day on which the notice is received.
- 17.07 The permit holder shall facilitate safe access for inspection of the work.
- 17.08 A copy of the actual plans issued in support of a permit shall be available to the inspector when requested.
- 17.09 Re-inspections of deficient or incomplete work shall be subject to an additional service fee as specified in the Fees and Charges By-law Schedule "D".

Part 18: Delegated Authority to Chief Building Official

- 18.01 The Council of the Corporation hereby delegates to the Chief Building Official the power to enter into agreements prescribed by the Corporation and described in clause 8.(3)(c) of the Act relating to the issuance of a Conditional Permit.
- 18.02 Where the Corporation enters into an agreement with a Registered Code Agency, the Chief Building Official is authorized to enter into a service agreement with a Registered Code Agency to perform one or more of the functions prescribed in Section 15.15 of the Act in respect of the construction or demolition of a building or class of buildings.

Part 19: Fences at Construction and Demolition Sites

- 19.01 Where, in the opinion of the Chief Building Official or inspector, a construction or demolition site presents a hazard to the public, the Chief Building Official or inspector may require the owner to erect such fences as the Chief Building Official or inspector deems appropriate to the circumstances to prevent unauthorized entry to the site.
- 19.02 In considering the hazard presented by the construction or demolition site to be fenced, the Chief Building Official or inspector shall have regard for:
 - a) The proximity of the building site to other buildings that are occupied;
 - b) The proximity of the construction or demolition site too lands accessible to the public;
 - c) The hazards presented by the construction or demolition activities and materials;
 - d) The effectiveness of site fences; and

e) The duration of the hazard.

19.03 Every fence required under this By-law shall:

- a) Create a continuous barrier to sufficiently deter unauthorized entry to the construction or demolition site to the satisfaction of the Chief Building Official or inspector;
- b) Be erected and maintained in a nominally vertical plane and maintained in good repair; and
- c) Be a minimum of 1.2 metres (4 feet) in height and shall not exceed the maximum height as set out in the Corporation's Zoning By-law.

Part 20: Offences and Penalties

20.01 Every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine as provided in Section 36 of the Act, 1992, S.O. 1992, c.23, as amended.

Part 21: Validity

21.01 In the event that any provision of this By-law is declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the remaining provisions of this By-law.

Part 22: Interpretation and Implementation

22.01 This By-law comes into force on the day of its enactment.

22.02 That By-law 10-2001 as amended is hereby repealed.

Olena Hankivsky, Mayor

Shrishma Davé, Acting Clerk