

THE CORPORATION OF THE
TOWN OF PELHAM

BY-LAW NO. 2686 (2005)

Being a by-law under the Building Code Act respecting building, demolition, change of use and occupancy permits, transfer of permits and inspections.

WHEREAS Section 7 of the Building Code Act, 1992, S.O. 1992, Chapter 23, as amended, empowers Council to pass certain by-laws respecting building, demolition, change of use and occupancy permits, transfer of permits, inspections and the setting and refunding of fees;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:

1. SHORT TITLE

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

2. DEFINITIONS

2.1 In this by-law:

2.1.1 "Act" means the *Building Code Act, 1992, S.O. 1992, c.23*, as amended.

2.1.2 "applicant" means the owner of a building or property who applies for a permit or any person authorized by the owner 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 such person or Corporation.

2.1.3 "architect" means the holder of a licence, certificate of practice or a temporary licence to practice in Ontario issued under the Architects Act as defined in the Building Code.

2.1.4 "Building Code" means the regulations made under Section 34 of the Act.

2.1.5. "Chief Building Official" means a Chief Building Official appointed by by-law by the Corporation of the Town of Pelham for the purposes of enforcement of the Act.

2.1.6 "construct" means construct as defined in Subsection 1(1) of the Act.

2.1.7 "Corporation" means the Corporation of the Town of Pelham.

2.1.8 "demolish" means demolish as defined in Subsection 1(1) of the Act.

2.1.9 "inspector" means an inspector appointed by by-law by the Corporation of the Town of Pelham for the purposes of enforcement of the Act.

2.1.10 "owner" means the registered owner of the property including a lessee, mortgagee in possession, and the authorized agent in lawful control of the property.

2.1.11 "permit" means permission or authorization in writing from the Chief Building Official to perform work, to change the use of the building or part thereof, or to occupy a building or part thereof, as regulated by the Act and Building Code.

2.1.12 "permit holder" means the owner to whom a permit has been issued or, where a permit has been transferred, the new owner to whom the permit has been transferred.

- 2.1.13 "professional engineer" or "engineer" means a person who holds a licence or temporary licence to practice in Ontario under the Professional Engineers Act, as defined in the Building Code.
- 2.1.14 "Registered Code Agency" means a registered code agency as defined in Subsection 1(1) of the Act.
- 2.1.15 "sewage system" means a sewage system as defined in Subsection 1(1) of the Act.
- 2.1.16 "work" means construction or demolition of a building or part thereof, as the case may be.
- 2.2 Any word or term not defined in this by-law, that is defined in the Act or Building Code shall have the meaning ascribed to it in the Act or the Building Code.
3. **CLASSES OF PERMITS**
- 3.1 The classes of permits set out in Schedule "A" of this by-law are hereby established.
4. **PERMITS**
- 4.1 To obtain a permit, the owner or an agent authorized in writing by the owner shall file an application in writing by completing a prescribed form available from the Chief Building Official or from the Building Code website www.obc.mah.gov.on.ca. Application forms prescribed by the Corporation under clause 7(f) of the Act are set out in Schedules "B", "D", "E" and "F" to this by-law.
- 4.2 Every application for a permit shall be submitted to the Chief Building Official, and contain the following information:
- 4.2.1 Where application is made for a construction permit under Subsection 8(1) of the Act, the application shall:
- 4.2.1.1 use the provincial application form, "Application for a Permit to Construct or Demolish"; and
- 4.2.1.2 include complete plans and specifications, documents and other information as required by Article 2.4.1.1B of the Building Code and as described in this by-law for the work to be covered by the permit; and
- 4.2.1.3 include completed form as set out in Schedule "D" where applicable; and
- 4.2.1.4 include a lot grading plan in accordance with the Corporation's Lot Grading Control Policy and Work Step Procedure BLDG/15R; and,
- 4.2.1.5 provide a grading conformance certificate in compliance with the Corporation's Lot Grading Control Policy and Work Step Procedure BLDG/15R.
- 4.2.2 Where application is made for a demolition permit under Subsection 8(1) of the Act, the application shall:
- 4.2.2.1 use the provincial application form, "Application for a Permit to Construct or Demolish"; and

- 4.2.2.2 include complete plans and specifications, documents and other information as required by Article 2.4.1.1B and Sentence 2.4.1.1(2) of the Building Code and as described in this by-law for the work to be covered by the permit; and
- 4.2.2.3 include completed form as set out in Schedule "D" where applicable; and
- 4.2.2.4 include completed form as set out in Schedule "E"; and,
- 4.2.2.5 pay a security deposit in such an amount as prescribed by the Chief Building Official to ensure that the site will be backfilled and graded with clean fill material to his or her satisfaction and that all private drain connections will be excavated and properly sealed at the property line.
- 4.2.3 Where application is made for a conditional permit under Subsection 8(3) of the Act, the application shall:
 - 4.2.3.1 use the provincial application form, "Application for a Permit to Construct or Demolish";
 - 4.2.3.2 include complete plans and specifications, document and other information as required by Article 2.4.1.1B of the Building Code and as described in this by-law for the work to be covered by the permit;
 - 4.2.3.3 state the reasons why the applicant believes that unreasonable delays in construction would occur if a conditional permit is not granted;
 - 4.2.3.4 state the necessary approvals which must be obtained in respect of the proposed building and the time in which such approvals will be obtained; and
 - 4.2.3.5 state the time in which plans and specifications of the complete building will be filed with the Chief Building Official.
- 4.2.4 Where application is made for a change of use permit issued under Subsection 10(1) of the Act, the application shall:
 - 4.2.4.1 use the prescribed form in Schedule "B" of this by-law;
 - 4.2.4.2 describe the building in which the occupancy is to be changed, by a description that will readily identify and locate the building;
 - 4.2.4.3 identify and describe in detail the current and proposed occupancies of the building or part of a building for which the application is made;
 - 4.2.4.4 include completed plans and specifications showing the current and proposed occupancy of all parts of the building, and which contain sufficient information to establish compliance with the requirements of the Building Code, including: floor plans, details of wall, ceiling and roof assemblies identifying required fire resistance ratings and load bearing capacities, details of the sewage system, if any;
 - 4.2.4.5 be signed by the owner or his or her authorized agent who shall certify the truth of the contents of the application.
- 4.2.5 Where application is made for a sewage permit under Subsection 8(1) of the Act, the application shall be made to the Chief Building Official of the Regional Municipality of Niagara, Public Health Department, appointed for the purposes of enforcement of Part 8 of the Building Code pursuant to Section 6.2 of the Act.

4.2.6 Where application is made for a transfer of permit because of change of ownership of the land, as permitted under Clause 7(h) of the Act, the application shall:

4.2.6.1 use the prescribed form in Schedule "B" of this by-law;

4.2.6.2 provide the names and addresses of the previous and new land owner;

4.2.6.3 provide the date that the land ownership change took place;

4.2.6.4 describe the permit that is being transferred.

4.2.7 Where application is made for occupancy of an unfinished building as provided in Article 2.4.3.1 of the Building Code, the application shall:

4.2.7.1 use the prescribed form in Schedule "B" of this by-law; and

4.2.7.2 describe the part of the building for which occupancy is requested.

4.3 Where an application is found to be incomplete and does not comply with Sentence 2.4.1.1(B)(5) of the Building Code, the application may be accepted for processing if the applicant acknowledges same and completes the form as set out in Schedule "F" of this by-law.

4.4 When, in order to expedite work, approval of a portion of the building or project is desired prior to the issuance of a permit for the complete building or project:

4.4.1 application shall be made and all applicable fees paid for the complete project; and

4.4.2 complete plans and specifications covering the portion of the work for which immediate approval is desired shall be filed with the Chief Building Official; and

4.4.3 where a partial permit is requested, the application is deemed to be incomplete as described in Section 4.3 of this by-law.

4.5 Where a permit is issued for part of a building or project this shall not be construed to authorize construction beyond the plans for which approval was given nor that approval will necessarily be granted for the entire building or project.

4.6 Where an application for a permit remains incomplete or inactive for six (6) months after it is made, the application may be deemed by the Chief Building Official to have been abandoned and notice thereof shall be given to the applicant. If an application is deemed to be abandoned, a new application must be filed for the proposed work.

5. PLANS AND SPECIFICATIONS

5.1 Sufficient information shall be submitted with each application for a permit to enable the Chief Building Official to determine whether or not the proposed construction, demolition, change of use or transfer of permit will conform with the Act, the Building Code and any other applicable law.

5.2 Each application shall, unless otherwise specified by the Chief Building Official, be accompanied by two (2) complete sets of plans and specifications as described in this by-law and Schedule "C" of this by-law.

5.3 Plans shall be drawn to scale (min. 1:75 or 3/16" = 1") on paper, cloth, or other durable material and shall be legible.

5.4 Site plans shall be referenced to an up-to-date survey and, when required to demonstrate compliance with the Act, the Building Code or other applicable law, a copy of the survey shall be submitted to the Chief Building Official. Site Plans shall show:

5.4.1 lot size and the dimensions of property lines and setbacks to any existing or proposed buildings;

5.4.2 existing and finished ground levels or grades; and

5.4.3 existing rights-of-way, easements and municipal services.

5.5 On completion of the construction of a building, the Chief Building Official may require a set of as constructed plans, including a plan of survey showing the location of the building.

5.6 Plans and specifications furnished according to this by-law or otherwise required by the Act become the property of the Corporation and will be disposed of or retained in accordance with relevant legislation.

6. REGISTERED CODE AGENCIES

6.1 The Chief Building Official is authorized to enter into and sign contracts for service agreements with registered code agencies and appoint them to perform specified functions from time to time in order to maintain the time periods for permits prescribed in Subsection 2.4.1 of the Building Code.

6.2 The registered code agency may be appointed to perform one or more of the specified functions described in section 15.15 of the Act.

7. FEES AND REFUNDS

7.1 The Chief Building Official shall determine the required fees for the works proposed, calculated in accordance with Schedule "A" of this by-law and the applicant shall pay such fees.

7.2 Any person or corporation who commences construction, demolition or changes the use of a building before issuance of the permit, shall, in addition to any other penalty under the Act, Building Code or this by-law, pay an additional fee equal to 100% of the amount calculated as the regular permit fee but in no case shall the additional fee exceed \$5,000.00, in order to compensate the Corporation for the additional work incurred by such early start of work.

7.3 In the case of withdrawal of an application, or the abandonment of all or a portion of the work, or refusal of a permit, or the non-commencement of any project, the Chief Building Official shall determine the amount of paid permit fees that may be refunded to the applicant, if any, in accordance with Schedule "A" of this by-law.

7.4 The applicant shall pay all applicable security deposits, driveway apron deposits, lot grading deposits or other deposits as prescribed by the Chief Building Official in accordance with the Corporation's policies respecting such deposits.

8. TRANSFER OF PERMITS

8.1 A permit may be transferred if the new land owner completes the permit application form in accordance with the requirements of Part 4 of this by-law.

8.2 A fee shall be payable on an application for a transfer of permit as provided in Schedule "A" of this by-law.

- 8.3 The new owner shall, upon a transfer of a permit, be the permit holder for the purpose of the Act and the Building Code.

9. **REVOCATION OF PERMITS**

- 9.1 Prior to revoking a permit under Subsection 8(10) of the Act, the Chief Building Official may serve a notice by personal service or registered mail at the last known address to the permit holder and, following a thirty (30) day period from the date of service, the Chief Building Official may revoke the permit if grounds to revoke still exist, without any further notice.

- 9.2 A permit holder may, within thirty (30) days from the date of service of a notice under this Part, request in writing the Chief Building Official to defer the revocation by stating reasons why the permit should not be revoked. The Chief Building Official, having regard to any changes to the Act, the Building Code or other applicable law, may allow the deferral, in writing.

- 9.3 A request for deferral shall be accompanied by the non-refundable fee therefore set out in Schedule "A" of this by-law.

10. **NOTICE REQUIREMENTS FOR INSPECTIONS**

- 10.1 The permit holder shall notify the Chief Building Official or a registered code agency, where one is appointed, of each stage of construction for which a mandatory notice is required under Article 2.4.5.1 of the Building Code. In addition to the notice of completion as prescribed by Section 11 of the Act, the permit holder shall provide another mandatory notice after the completion of demolition work to ensure the completion of site grading and other works as described in Article 4.2.2.5. of this by-law.

- 10.2 A notice pursuant to this part of the by-law is not effective until notice is actually received by the Chief Building Official or the registered code agency and the permit holder received a confirmation number issued by the Corporation or the registered code agency.

- 10.3 Upon receipt of proper notice, the inspector or a registered code agency, if one is appointed, shall undertake a site inspection of the building to which the notice relates in accordance with the time periods stated in Article 2.4.5.3 of the Building Code and Section 11 of the Act.

11. **VALIDITY**

- 11.1 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.

12. **CONTRAVENTION OF BY-LAW/OFFENCE**

- 12.1 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 Building Code Act, 1992, S.O. 1992, c.23, as amended.

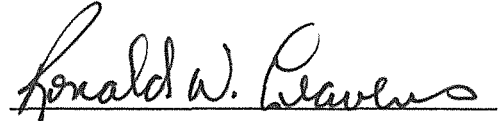
13. **REPEAL/ENACTMENT**

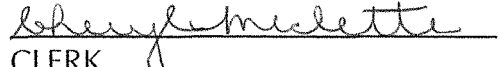
- 13.1 By-law No. 2277 (2001) and all of its amendments are hereby repealed.

- 13.2 Notwithstanding section 13.1 of this by-law, for any application received prior to July 1, 2005 the permit fee shall be calculated in accordance with Schedule "A" of By-law No. 2277 (2001).

13.3 This by-law comes into force on July 1, 2005.

READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED BY COUNCIL THIS
20th DAY OF JUNE, 2005 A.D.


MAYOR


CLERK