

THE CORPORATION OF THE CITY OF PEMBROKE

BY-LAW 2005 – 67

A BY-LAW RESPECTING CONSTRUCTION, DEMOLITION
AND CHANGE OF USE PERMITS AND INSPECTIONS

WHEREAS Section 7 of the Ontario Building Code Act, S.O. 1992, Chapter 23 empowers Council to pass certain by-laws respecting construction, demolition and change of use permits and inspections.

NOW THEREFORE, THE CORPORATION OF THE CITY OF PEMBROKE ENACTS AS FOLLOWS:

SECTION 1 **SHORT TITLE**

1.1 This By-Law may be cited as “The Building By-Law”.

IN THIS BY-LAW:

SECTION 2 **DEFINITIONS**

2.1 “**Act**” means the Building Code Act, S.O. 1992, Chapter 23, including amendments thereto.

“**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.

“**Architect**” means a holder of a license, a certificate of practice, or a temporary license under the *Architect’s Act* as defined in the *Building Code*.

“**Building**” means a building as defined in Section 1.-(1) of the Act.

- a) a structure occupying an area greater than ten square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof; including all plumbing, works, fixtures and service systems appurtenant thereto,
- b) a structure occupying an area of ten square metres or less that contains plumbing, including the plumbing appurtenant thereto;
- c) plumbing not located in a structure;
- d) a sewage system; or
- e) structures designated in the *Building Code*.

“**Building Code**”, means the regulations made under Section 34 of the Act.

“**Chief Building Official**” means Chief Building Official appointed by by-law of The Corporation of the City of Pembroke for the purposes of enforcement of the Act.

“**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 essentially used for the housing of equipment or livestock, or the protection, storage or processing of agricultural and horticultural produce or feeds.

“**Occupancy**” means the use or intended use of a building or part thereof for the shelter or support of persons, animals or property.

“**Permit**” means written permission or written authorization from the Chief Building Official to perform work regulated by this by-law and the Act.

“Plumbing” means a drainage system, a venting system and a water system or parts thereof.

“Professional Engineer” means a person who holds a license or a temporary license under the *Professional Engineer’s Act*.

“Sewage System” means

- a) a chemical toilet, an incinerating toilet, a re-circulating toilet, a self-contained portable toilet and all forms of privy including a portable privy, an earth pit privy, a pail privy, a privy vault and a composting toilet system,
- b) a greywater system,
- c) a cesspool,
- d) a leaching bed system, or
- e) a system which requires or uses a holding tank for the retention of hauled sewage at the site where it is produced prior to its collection by a hauled sewage system.

where these,

- f) have a design capacity of 10,000 litres per day or less,
- g) have, in total, a design capacity of 10,000 litres per day or less where more than one of these are located on a lot or parcel of land, and
- h) are located wholly within the boundaries of the lot or parcel of land on which is located the building or buildings they serve.

“Treasurer” shall mean the person appointed by the Corporation of the City of Pembroke to administer the financial affairs of the Corporation.

“Partial Permits” 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, applications shall be made and fees paid for the complete project. Complete plans and specifications covering the portion of the work for which immediate approval is desired shall be filed with the Chief Building Official.

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 or that approval will necessarily be granted for the entire building or project.

SECTION 3 PERMITS

3.1 CLASSES OF PERMITS

Class

Construction Permit – required under Section 8.-(1) of the Act.

Change Of Use –classified under a Construction Permit.

Conditional Permit classed under Construction Permit and accompanied by an agreement authorized under Section 8.-(3) (c) of The Act.

3.1.1 Classes of Permits with respect to the construction and demolition and change of use of buildings and permit fees shall be as set out in Schedule “A” to this by-law.

3.1.2 After the issuance of a permit under the Act, notice of any material change to a plan, specification, document or other information on the basis of which the permit was issued, must be given in writing to the Chief Building Official together with the details of such change which is not to be made without his or her written authorization.

3.2 Permit must be Obtained

- 3.2.1 No person shall construct or demolish a building or change the use of a building or cause a building to be constructed or demolished or a change of use be made to a building, unless a permit has been issued therefore by the Chief Building Official.

3.3 Revision to a Permit

- 3.3.1 After the issuance of a permit under the Act by the Chief Building Official, notice of any material change to a plan, specification, document or other information on the basis of which the permit was issued, must be given in writing, to the Chief Building Official together with the details of such change, which is not to be made without the written authorization of the Chief Building Official.

3.4 Revocation of a Permit

- 3.4.1 The Chief Building Official, subject to the provisions outlined in Section 8.-(10) of the Act, has the authority to revoke a permit issued under the Act.

3.5 The Application

- 3.5.1 To obtain a permit, the owner or agent authorized in writing by the owner, shall file an application in writing by completing a prescribed form available at the offices of the Corporation, from the Chief Building Official or from the Building Code website www.obc.mah.on.ca. Forms prescribed by the Corporation under Section 7.-(1)(f) of the Act shall be as set out in Schedule 'C' to this By-law.
- 3.5.2 Every application shall be accompanied by the required application fee (see Permit Fees) and shall be signed by the owner or an authorized agent, who shall certify the truth of the contents of the application.
- 3.5.3 Every application for a permit shall be submitted to the Chief Building Official or duly appointed designate and shall contain the following information.
- (1) Where application is made for a Construction Permit under Section 8.-(1) of the Act, the application shall:
 - (a) identify and describe in detail the work and occupancy to be covered by the permit for which application is made;
 - (b) describe the land on which the work is to be done, by a description that will readily identify and locate the building lot;
 - (c) include two (2) complete sets of plans, 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 covered by the permit. This shall not be deemed to limit the authority of the Chief Building Official to vary the number of plans, specifications and other documents or information required depending on the need for review, approval or requirements of any department of the Corporation or other outside agency; and
 - (d) be accompanied by a written acknowledgement of the owner that he has retained an architect or professional engineer to carry out the field review of the construction where required by the *Building Code*.

- (2) Where application is made for a demolition permit under Section 8.-(1) of the Act, the application shall:
 - (a) contain the information required by clauses (1) (a) to (d); and,
 - (b) be accompanied by satisfactory proof that arrangements have been made with the proper authorities for the cutting off and plugging of all water, sewer, gas, electric, telephone or other utilities and service.

- (3) Where application is made for a conditional permit under Section 8.-(3) of the Act, the application shall;
 - (a) contain the information required by clauses (1)(a) to (d);
 - (b) contain such other information, plans and specifications concerning the complete project as the Chief Building Official may require;
 - (c) state the reasons why the applicant believes that unreasonable delays in construction would occur if a conditional permit is not granted;
 - (d) state the necessary approvals which must be obtained in respect of the proposed building and the time in which such approvals will be obtained;
 - (e) state the time in which plans and specifications of the complete building will be filed with the Chief Building Official; and,
 - (f) should a permit be issued for part of a building, the holder of such permit may proceed but the municipality gives no assurances that permits required for the remainder of the project will be granted.

3.5.4 Change of Use Permits

Every application for a change of use permit issued under Section 10.-(1) of the Act shall be submitted to the Chief Building Official, and shall:

- (1) describe the building in which the occupancy is to be changed, by a description that will readily identify and locate the building;
- (2) identify and describe in detail the current and proposed occupancies of the building or part of a building for which the application is made;
- (3) include two (2) complete sets of plans, specifications, documents or other information showing the current and proposed occupancy (use) of all parts of the building, and which contains sufficient information to establish compliance with the requirements of the Building Code including, but not limited to: floor plans, details of the wall, ceiling and roof assemblies identifying the required fire resistance ratings and load bearing capacities and details of the existing sewage system, if any; and
- (4) be signed by the owner or his or her authorized agent who shall certify the truth of the contents of the application.

3.5.5 Sewage System Permits

For every application for a sewage system permit that is submitted to the Chief Building Official or duly appointed designate, the application shall:

- a) use the provincial application form, “Application for a Permit to Construct or Demolish”;
- b) include complete plans, specifications, documents and other information as required under Article 2.4.1.1B of the Building Code and as described in this By-law for the work to be covered by this permit; and
- c) include a site evaluation which shall include the following prescribed information, unless otherwise specified by the Chief Building Official or an appointed designate:

- I. The date when the evaluation was done;
- II. The name, address and phone number and signature of the person who did the evaluation;
- III. A scaled map of the site showing the legal description (i.e. lot and concession, civic address), lot size, lot dimensions, existing easements and/or right-of-way or utility corridors, the location of items listed in Column 1 of Tables 8.2.1.5.A., 8.2.1.5.B and 8.2.1.5.C. of the Building Code, the location of the proposed sewage system, the location of any unsuitable, disturbed or compacted areas, the proposed access routes for system maintenance; the depth to bedrock, the depth to zones of soil saturation, soil properties, including soil permeability, and soil conditions, including the potential for flooding; and
- IV. Any other information as may be deemed to be required by the Chief Building Official or appointed designated to determine compliance with the Building Code Act or other applicable law.

3.5.6 Equivalents

Where an application for a permit or for authorization to make a material change to a plan, specification, document or other information on the basis of which a permit was issued, contains an equivalent material, system or building design for which authorization under Section 9 of the Act is requested, the following information shall be provided:

- (1) a description of the proposed material, system or building design for which authorization under Section 9 of the Act is requested;
- (2) any applicable provisions of the Building Code; and
- (3) technical evidence or justification that the proposed material, system or building design will provide or meet the level of performance required by the Building Code.

3.6 Plans, Specifications and Information

- 3.6.1 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 or change of use will conform with the Act, the Building Code and any other applicable law.
- 3.6.2 Each application shall, unless otherwise specified by the Chief Building Official, be accompanied by two complete sets of the plans and specifications required under this by-law.
- 3.6.3 Plans shall be drawn to scale on paper, cloth or other durable material, shall be legible and, without limiting the generality of the foregoing, shall include such working drawings as set out in Schedule "B" to this by-law unless otherwise specified by the Chief Building Official and where required to be prepared under the Architect's Act, R.S.O. 1990, Chapter A.26 and its amendments or Professional Engineer's Act, R.S.O. 1990, Chapter P.28 and its amendments shall be professionally prepared.
- 3.6.4 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:
 - (1) lot size and the dimensions of property lines and setbacks to any existing or proposed building;
 - (2) existing and finished ground levels or grades; and,
 - (3) existing rights-of-way, easements and municipal services.

- 3.6.5 Plans submitted with an application form to permit construction of a building may be required to be approved by the Fire Chief as complying with the fire safety requirements of the Building Code prior to the issuance of a permit by the Chief Building Official.

SECTION 4 FEES

- 4.1 Fees for a required permit shall be as set out in Schedule 'A' attached to and forming part of this By-law and are due and payable upon submission of a complete application for a construction, demolition or change of use permit, unless otherwise specified by the Chief Building Official or appointed designate. Where fees are due and are unpaid, the Chief Building Official may refuse to issue the permit. For a conditional permit, the permit may be paid for the complete project or for the actual component or part of the building for which the permit is issued.
- 4.2 Fees for required permits shall be deemed to have been calculated on the basis of full cost recovery for the building service and shall include both the direct and indirect costs of the administration and enforcement of the Act. Without limiting the foregoing this shall include plan review, field inspections, clerical support and overhead costs of the building department and other building department related support service.
- 4.3 Fees as set out in Schedule 'A' are calculated as either a flat fee or a combination of a minimum flat fee based on a specified floor area plus a graduated fee for a building whose size exceeds the specified floor area. Fees for permits for projects which have a water access only are calculated to include the costs for the additional time required to conduct such inspections and shall be deemed to constitute part of the permit fee.
- 4.4 Fees shall be calculated by the Chief Building Official or appointed designate.
- 4.5 Where the fees payable in respect of an application for a construction, demolition or conditional permit are based on the floor area of the building, floor area shall mean the gross floor space of all storeys above grade (or below grade for an underground building or residence) measured between the exterior faces of the exterior walls of the building and where there are no walls (i.e. deck), the total area of a floor within the outer perimeter of the floor. For a change of use permit, the fees shall be based on the floor area of all storeys or floor space which are subject to the change of use.

SECTION 5 REFUNDS

- 5.1 In the case of the withdrawal of an application or abandonment of all or a portion of the work, or the non-commencement of any project, and upon request, the Chief Building Official or appointed designate shall determine the amount of the paid permit fees that may be refunded to the applicant, if any, in accordance with Schedule 'C' to this By-law. The calculation of the amount of the refund by the Chief Building Official shall be final.

SECTION 6 NOTICE REQUIREMENTS FOR INSPECTION

- 6.1 A person to whom a permit is issued shall give notice of readiness for inspection to the Chief Building Official to appointed designate at least 24 hours or one business day prior to a mandatory inspection or any other inspection that may be requested by the Chief Building Official as set out in Schedule 'D' attached to and forming part of this By-law.

- 6.2 At the sole discretion of the Chief Building Official, where the owner or authorized agent gives notice for a specific inspection of any building, lot or parcel of land and the inspection cannot be properly carried out due to unfinished work, or the inspection is broken down into multiple inspections due to the phasing or complexity of the building, or the inspection is requested to be performed outside of the regular office hours of the Corporation, the owner shall be responsible for the Corporation's additional costs, as specified in Schedule 'A' attached to and forming part of this By-law. Such additional fees shall be termed 'Inspection Fees' and shall be due and payable to the Treasurer of the Corporation upon demand.

SECTION 7 AS CONSTRUCTED PLANS

- 7.1 The Chief Building Official may require that a set of plans of a building or any class of buildings as constructed be filed with the Chief Building Official upon completion of construction under such conditions as may be prescribed in the Building Code.

SECTION 8 PRESCRIBED FORMS

- 8.1 The forms prescribed for use as applications for permits, for orders, for permits, for inspection reports and administrative matters shall be as set out in Schedule "C" attached to a forming part of this By-law.

SECTION 9 ANNUAL REPORT AND RESERVE FUND

- 9.1 The Treasurer is hereby directed to prepare an Annual report which shall enumerate the direct and indirect costs of delivering building services related to the administration and enforcement of the Building Code Act for the previous fiscal year (12 month period). The said report shall also set out the amount of the reserve fund at the end of the previous fiscal year. The Annual Report shall be submitted to Council no later than three months after the end of the previous fiscal year.
- 9.2 For the purposes of this By-law, the fiscal year of the municipality shall be as prescribed by the Municipal Act, 2001, S.O. 2001, Chapter 25 and its amendments.
- 9.3 A reserve fund is hereby established for the purposes of setting aside surplus revenues from building permit fees. The reserve fund shall be used exclusively for the operations of the Building Department of the Corporation for any subsequent fiscal year or fiscal years. The Treasurer is hereby directed to maintain all records related to the reserve fund.

SECTION 10 TRANSFER OF PERMITS

- 10.1 The transfer of a permit shall be permitted when there is a change of ownership of the lands affected by the permit provided that the new owner informs the Chief Building Official in writing that he/she has assumed responsibility for engaging the services of any contractor, design professional or other service required to complete work authorized under a permit or permits.

SECTION 11 VALIDITY

- 11.1 Should any Section or part of a Section of this By-law or schedules hereto be declared by a court of competent jurisdiction to be invalid, the same shall not affect the provisions of this By-Law as a whole or any part other than the part declared to be invalid.

SECTION 12 OTHER BY-LAWS, LICENSES, PERMITS AND REGULATIONS

12.1 Nothing in the By-law shall exempt any person from complying with the requirements of any other By-law in force within the limits of the Corporation, or from applying for and obtaining any permit, license, permission, authority or approval required by this or any other By-law or regulation of the Corporation or any other law in force from time to time.

SECTION 13 CONFLICT

13.1 In the event of a conflict between this By-law and any amendments thereto, and any general or special By-law, legislation or regulation, the most restrictive legislation, regulation or other By-law shall prevail.

SECTION 14 PENALTY

14.1 Every person or corporation who contravenes any provision of this By-law is guilty of an offence and upon conviction under the provisions of the Building Code Act is liable to a fine and/or other penalty imposed under Section 36 of the Act.

SECTION 15 REPEAL

15.1 Any By-laws, or amendments thereto passed under Section 7 of the Act, or its predecessor, are hereby repealed.

SECTION 16 EFFECTIVE DATE

16.1 This By-law shall take effect from the date of passage by council, subject to the provisions of the Act.

READ A FIRST AND SECOND TIME THIS 20th DAY OF DECEMBER, 2005

Chief Administrative Officer

Mayor

READ A FIRST AND SECOND TIME THIS 20th DAY OF DECEMBER, 2005

Chief Administrative Officer

Mayor