

(Office Consolidation as of February 6, 2024)

Corporation of the Town of Greater Napanee

By-law No. 2009-0009

A By-law Respecting Building, Demolition and Change of Use Permits and Related Fees

Originally Passed: March 10, 2009

As Amended By:

By-law Number:	Date Passed:
2010-0035	June 29, 2010
2014-0017	April 8, 2014
2015-0008	January 27, 2015
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Note: This consolidation is provided for convenience purposes only. Every effort is made to ensure the accuracy of this information, however it is not to be used in place of actual by-laws. Users should consult the original by-laws for purposes of interpretation and application.

THE CORPORATION OF THE TOWN OF GREATER NAPANEE

BY-LAW NO. 2009 – 09

A By-Law Respecting Building, Demolition and Change of Use Permits and Related Fees

WHEREAS Section 7 of the *Building Code Act, 1992*, permits the municipality to pass by-laws respecting construction, demolition and change of use permits and inspections;

AND WHEREAS Section 3(1) of the *Building Code Act, 1992* provides that the council of each municipality is responsible for the enforcement of this Act in the municipality;

AND WHEREAS Section 3(2) of the *Building Code Act, 1992* provides that the council of each municipality shall appoint a Chief Building Official and such inspectors as are necessary for the enforcement of the Act in the areas in which the municipality has jurisdiction;

AND WHEREAS Section 391 of the *Municipal Act, 2001* provides that a municipality may pass by-laws imposing fees or charges on any class of persons for services provided municipality; and

NOW THEREFORE the Council of the Corporation of the Town of Greater Napanee hereby enacts the following:

1.0 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this by-law,

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

“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 demolition of a building or buildings and anyone acting under the authority of such a person or corporation;

“as constructed plans” mean construction plans and specifications that show a building and the location of the building on its property as the building has been constructed;

“building” means:

- (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 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 the Chief Building Official appointed by by-law of the Municipality for the purposes of enforcement of the Act;

“construct” means to do anything in the erection, installation, extension or material alteration or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere and “construction” has a corresponding meaning;

“demolish” means to do anything in the removal of a building or any material part thereof and “demolition” has a corresponding meaning;

“Inspector” means an inspector appointed by by-law of the Municipality for the purposes of enforcement of the Act;

“Municipality” means the Corporation of the Town of Greater Napanee;

“owner” in connection with real property means the registered owner of the property;

“permit” means permission or authorization in writing from the Chief Building Official to perform work regulated by the Act and the Building Code and in the case of an occupancy permit, to occupy any building or part thereof;

“permit holder” means the owner to whom the permit has been issued or, where the permit has been transferred, the new owner to whom the permit has been transferred.

“work” means to do anything in the construction or demolition or change of use or plumbing work for a building which is regulated by the Act and the Building Code and “project” has a similar meaning.

1.2 Interpretation

- 1.2.1 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 Building Code.
- 1.2.2 In this by-law, a word interpreted in the singular number has a corresponding meaning when used in the plural.
- 1.2.3 This by-law includes the Schedules annexed hereto and the Schedules are hereby declared to form part of this by-law.
- 1.2.4 If any section, subsection or part or parts thereof be declared by any court of law to be illegal or ultra vires, such section, subsection or part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

2.0 PERMITS

2.1 Classes of Permits (Act, Section 7(a))

Those classes of permits with respect to the construction, demolition or change of use of a building or part thereof as set out in Schedule “A” annexed hereto are hereby established.

3.0 APPLICATIONS FOR PERMITS (ACT, SECTION 7(b))

3.1 Applications for Permit to Construct (Act, Section 8(1))

Where an application is made for a permit to construct, the applicant shall file the following information:

- a) the standardized provincial application form entitled “Application for a Permit to Construct or Demolish” (available from the Chief Building Official or from the official Ontario Building Code website at www.obc.mah.gov.on.ca); and
- (b) complete plans, specifications, documents and other information as required by Subsection 1.3.1 Division C of the Building Code, and any further material required by the Chief Building Official in accordance with Paragraph 4 of this by- law.

3.2 Application for Permit To Demolish (Act, Section 8(1))

Where an application is made for a permit to demolish the applicant shall file the following information:

- (a) the standardized provincial application form entitled “Application for a Permit to Construct or Demolish” (available from the Chief Building Official or from the official Ontario Building Code website at www.obc.mah.gov.on.ca);
- (b) complete plans, specifications, documents and other information as required by Subsection 1.3.1 Division C of the Building Code, and any further material required by the Chief Building Official in accordance with Paragraph 4 of this by-law;
- (c) proof satisfactory to the Chief Building Official that arrangements have been made with the proper authorities for the cutting off and capping of all water, sewer, gas, electric and private services; and
- (d) written confirmation that the site will be backfilled and graded with clean material and that all private drain connections will be excavated and property sealed at the property line.

3.3 Application for Conditional Permit (Act, Section 8(3))

Where an application is made for a conditional permit the applicant shall file the following information:

- (a) the standardized provincial application form entitled “Application for a Permit to Construct or Demolish” (available from the Chief Building Official or from the official Ontario Building Code website at www.obc.mah.gov.on.ca);
- (b) complete plans , specifications, documents and other information as required by Subsection 1.3.1 Division C and Article 1.3.1.5 Division C of the Building Code, and any further material required by the Chief Building Official in accordance with Paragraph 4 of this by-law;
- (c) a statement of the reasons why the applicant believes that unreasonable delays in construction would occur if a conditional permit is not granted;
- (d) a statement of the necessary approvals which must obtain in respect of the proposed building and the time in which such approvals will be obtained;
- (e) the time in which plans and specifications of the complete building will be filed with the Chief Building Official; and
- (f) a signed agreement in the form prescribed by the Chief Building Official to do the following:
 - (i) assume all risk in commencing the construction,

- (ii) obtain all necessary approvals within the time period referred to under subsection 3.3(d) above,
- (iii) file plans and specifications of the complete building within the time period specified in subsection 3.3(e) above,
- (iv) at the applicant's own expense, remove the building and restore the site if approvals are not obtained or plans are not filed in the time set out in the agreement, and
- (v) comply with such other conditions as the Chief Building Official considers necessary.

3.4 Application for Change of Use Permit (Act, Section 10(1))

Where an application is made for a change of use permit the applicant shall file the following information:

- (a) the form prescribed by the Chief Building Official;
- (b) complete plans, specifications, documents and other information as required by Subsection 1.3.1 Division C of the Building Code, and any further material required by the Chief Building Official in accordance with Paragraph 4 of this by-law; and
- (c) a description of the current and proposed occupancies of the building or part of the building for which the application is made.

3.5 Application for Transfer of Permit (Act, Section 7(h))

Where an application is made for a transfer of permit because of change of ownership of the property, the applicant shall file the following information:

- (a) the form prescribed by the Chief Building Official;
- (b) the names and address of the former and new owner;
- (c) the date that the property was transferred to the new owner;
- (d) the nature of the permit being transferred; and
- (e) written confirmation from the original permit holder that the permit is to be transferred.

3.6 Application for Partial Permit

Where an application is made for a partial permit in order to expedite work for a portion of a building prior to the issuance of a permit for the work for the complete building, the applicant shall file the following information:

- (a) the standardized provincial application form entitled “Application for a Permit to Construct or Demolish” (available from the Chief Building Official or from the official Ontario Building Code website at www.obc.mah.gov.on.ca);
- (b) complete plans, specifications, documents and other information as required by Subsection 1.3.1 Division C of the Building Code, and any further material required by the Chief Building Official in accordance with Paragraph 4 of this by-law; and
- (c) a signed acknowledgement from the applicant that the issuance of a partial permit shall not be construed to authorize construction beyond the plans for which approval was given or as a guarantee that approval will necessarily be granted for the entire work.

4.0 INFORMATION TO BE SUBMITTED WITH APPLICATIONS

4.1 General

In addition to the requirements set out under Paragraph 3 above, unless otherwise directed by the Chief Building Official, every application for a permit shall:

- (a) be signed by the applicant who shall certify the truth of the contents of the application;
- (b) be accompanied by the required fees as set out in Schedule “A”;
- (c) include any information relating to the application as required by the Chief Building Official;
- (d) identify and describe in detail the work, use and occupancy to be covered by the permit for which the application is made;
- (e) identify and describe in detail the existing uses and the proposed use for which the property is intended;
- (f) describe the land on which the work is to be done, by a description that will readily identify and locate the site on which the construction, demolition or change of use is to occur;

- (g) be accompanied by proof acceptable to the Chief Building Official of property ownership and, where appropriate, a signed authorization appointing an individual or corporation to act as the owner's agent in respect of an application; and
- (h) provide whether other information, plans, surveys or documents are required in order 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, any applicable law and whether or not adjacent property may be affected.

4.2 Plans and Specifications

- 4.2.1 Each application shall, unless otherwise specified by the Chief Building Official, be accompanied by two complete sets of the plans and specifications as described in this By-law and Schedule "B" of this By-Law.
- 4.2.2 The applicant shall ensure that plans submitted to the Chief Building Official:
 - (a) are drawn to scale upon substantial material or in electronic format approved by the Chief Building Official;
 - (b) are legible and durable; and
 - (c) indicate the nature and extent of the work or proposed occupancy in sufficient detail to establish that the completed work will conform to the Act, the Building Code and any applicable law.
- 4.2.3 The applicant shall submit a copy of a plan of survey certified by a Registered Ontario Land Surveyor to the Chief Building Official when required to demonstrate compliance with the Act, the Building Code or any applicable law.
- 4.2.4 The applicant shall ensure that site plans submitted to the Chief Building Official to demonstrate compliance with the Act, the Building Code and any applicable law shall contain the following information:
 - (a) lot size, lot dimensions and setbacks to any existing or proposed buildings;
 - (b) existing and finished ground levels or grades of the property and elevations of the streets abutting the property; and
 - (c) existing rights-of-way, easements, municipal services and private services.
- 4.2.5 Upon completion of the foundation, a building location survey shall be submitted when requested by the Chief Building Official for new residential buildings and buildings under Site Plan Agreement with the Municipality or any other building as requested in order to confirm compliance with any Building Code or zoning requirement.

4.2.6 Plans and specifications furnished in accordance with the requirements of this by-law or otherwise required by the Act become the property of the Municipality and shall be retained in accordance with any and all applicable legislation and the by-laws.

5.0 AFTER FILING OF APPLICATION

5.1 Incomplete Application

Where an application is found to be incomplete or does not comply with the relevant provisions of the Act or the Building Code, the Chief Building Official may accept the application for processing if the applicant acknowledges that the application is incomplete and completes the form as set out in Schedule “C” of this by-law.

5.2 Deviations From Plans, Specifications Or Other Documents

Deviations from the plans, specifications or other documents filed and in respect of which a permit or permits were issued, may be made following the issuance thereof or during the course of inspections provided that:

- (a) the changes do not contravene the Act, the Building Code or any applicable law;
- (b) the Chief Building Official agrees to the changes;
- (c) revised plans and specifications in the prescribed numbers are submitted for the approval; and
- (d) the additional non-refundable fee for “Revision to permit” as set out in Schedule “A” is submitted prior to review by the Chief Building Official.

5.3 As Constructed Plans

On completion of the construction of a building being the subject of a permit the owner shall, if required by the Chief Building Official, submit to the Chief Building Official a set of as constructed plans of the work including a plan of survey showing the location of the building.

6.0 EQUIVALENTS (ACT, SECTION 9(1))

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 is requested, the following information shall be provided by the owner to the Chief Building Official:

- (a) a description of the proposed material, system or building design for which authorization is requested;
- (b) any applicable provisions of the Building Code; and
- (c) evidence that the proposed material, system or building design will provide the level of performance required by the Building Code.

7.0 NOTICE AT EACH STAGE

- 7.1 With respect to “additional notices” under Article 1.3.5.2 Division C of the Building Code, the applicant, owner or authorized agent shall notify the Chief Building Official at least two (2) business days prior to each stage of construction for which notice in advance is required under the Building Code.
- 7.2 A notice pursuant to subparagraph 7.1 above is not effective until notice is actually received by the Chief Building Official and the applicant, owner or permit holder, as the case may be, receives confirmation of the reception of notice issued by the Municipality.
- 7.3 No inspection shall be completed by the Municipality for any required inspection unless notice is received from the applicant, owner or authorized agent for whom a building permit has been issued, unless otherwise indicated at the time of building permit issuance, or at the discretion of the Chief Building Official.

8.0 FEES

- 8.1 The Chief Building Official shall calculate the required fees for the work proposed in accordance with Schedule “A” of this by-law and the owner shall pay such fees upon submission of the applicant for a permit.
- 8.2 Where the fees payable in respect of an application for a construction or demolition permit or a conditional permit are based upon the cost of valuation of the proposed work, the cost of valuation of the proposed work shall mean the total cost of all work regulated by the permit including the cost of all material, labour, equipment, overhead and professional and related services.
- 8.3 Where the fees payable in respect of an application for a construction or demolition permit or a conditional permit are based on a floor area, floor area shall mean the total floor space of all stories above or below grade measured as the horizontal area between the exterior walls of the building.
- 8.4 In connection with applications for conditional permits, fees shall be payable based upon the complete project, and not simply the work to be carried out pursuant to the conditional permit

- 8.5 Where fees payable in respect of an application for a change of use permit are based on floor area, floor area shall mean the total floor space (determined in accordance with subsection 8.3 above) of all stories or parts thereof that are subject to the change of use.
- 8.6 Where applicable, the Chief Building Official may place a valuation on the cost of the proposed work for the purposes of establishing the permit fee, and where disputed by the applicant, the applicant may pay the required fee under protest and, within six (6) months of completion of the work, may submit an audited statement of the actual costs incurred, and where the audited costs are determined to be less than the valuation, the Chief Building Official shall issue a refund in accordance with section 9 of this By-law.
- 8.7 Any person or corporation who commences construction, demolition or changes the use of a building without a valid permit issued in accordance with this By-law shall, in addition to any other penalty under the Act, Building Code, or this By-law, pay over and above the fee otherwise determined in accordance with this by-law, a fee equal to 25% of the amount calculated as the regular permit fee to a maximum of \$10,000.

9.0 REFUNDS

- 9.1 Upon the written request of the applicant or permit holder the Chief Building Official shall determine the amount of refund of permit fee, if any, that may be returned to the applicant or permit holder where:
- (a) an application for a permit is withdrawn;
 - (b) the Chief Building Official refuses to issue a permit for which an application has been made;
 - (c) the Chief Building Official revokes a permit after it has been issued; or
 - (d) a valuation has been appealed by a permit holder in accordance with the procedure set out under subsection 8.6 of this By-law.
- 9.2 The amount, if any, of the refund shall be determined in accordance with Schedule "D" attached to and forming part of this by-law.

10.0 OFFENCE

Any person who contravenes any provision of this by-law is guilty of an offense as provided for in Section 36(1) of the Act.

11.0 REPEAL

By-law Nos. 05-61 and 07-31, are hereby repealed.

12.0 SHORT TITLE

This by-law may be referred to as the "Building By-law."

13.0 COMING INTO FORCE

This by-law shall come into force and take effect on the date it is finally passed.

Read a first and second time and finally passed this 10th day of March, 2009.

Gordon Schermerhorn, Mayor

Rebecca Murphy, Clerk

**Schedule "A" to By-law No. 2009-09 as amended by By-law No. 2020-0045
 Respecting Classes of Permits and Fees Payable**

CLASS OF PERMITS	FEE PAYABLE
Permit to Construction A permit to construct a building or structure or enlarge, extend, alter, repair, renovate or do a material alteration to a building or structure within the meaning of the Act and Regulations	\$11.00 per \$1,000.00 or part thereof of the estimated value of work* up to \$3,000,000.00, with a minimum fee of \$100.00 \$6.00 per \$1,000.00 or part thereof of the estimated value of work above \$3,000,000.00
Partial Permit	\$11.00 per \$1,000.00 or part thereof of the estimated value of work* with a minimum charge of \$100.00
Permit to Demolish A demolition permit to demolish a building or structure or a material part thereof within the meaning of the Act and the Regulations	\$100.00 per application
Renewal of a Revoked Permit	\$100.00 per application
Installation Permit A permit for the installation of a building unit fabricated or moved from elsewhere	\$11.00 per \$1,000.00 or part thereof of the estimated value of work* with a minimum charge of \$100.00
Permit to Install Roof Top Solar Panels	\$150.00 per installation, plus \$11.00 per \$1,000.00 of the estimated value of any remedial work required, including structural and/or mechanical
Permit to Construct a Pool A permit to construct an above ground or inground pool.	\$11.00 per \$1,000.00 or part thereof of the estimated value of work* with a minimum charge of \$100.00
Occupancy Permit A permit authorizing occupation of a building or part thereof prior to its completion in accordance with the Act and Regulations	\$100.00
Revision of a Permit	\$11.00 per \$1,000.00 or part thereof of the estimated value of work* with a minimum charge of \$100.00
Change of Use Permit A "Change of Use" permit, as outlined in Section 10(1) of the Building Code Act	\$100.00 permit fee

<p>Conditional Permit A permit to authorize the issuance of a conditional permit, as outlined in Section 8 (3) of the Building Code Act</p>	<p>\$11.00 per \$1,000.00 or part thereof of the estimated value of work* with a minimum charge of \$100.00</p>
<p>Plumbing Permit To construct, alter, repair or renew plumbing, or revision to a plumbing permit</p>	<p>\$10.00 basic fee per fixture or appliance with a minimum fee of \$100.00</p>
<p>Re-inspections When the Building/Plumbing Inspector has been notified that any installation is ready for inspection and the same is not ready when the Building/Plumbing Inspector attends to inspect the same, as solely determined by the said Building/Plumbing Inspector, or if the installation fails to conform to any requirement to which the same is obliged by law to conform, an additional fee shall be paid by the person to whom the permit has been issued for each additional inspection by the Building/Plumbing Inspector.</p>	<p>\$25.00</p>

*The following values will be used to determine the minimum estimated value of work:

Residential Construction	\$125.00 per sq. ft.
Residential (finished living areas within a basement)	\$ 20.00 per sq. ft.
Residential Garages	\$ 30.00 per sq. ft.
Residential Carports	\$ 10.00 per sq. ft.
Decks	\$ 10.00 per sq. ft.
Commercial Construction	\$ 45.00 per sq. ft.
Industrial Construction	\$ 45.00 per sq. ft.
Farm Building Construction	\$ 20.00 per sq. ft.
Institutional	\$ 45.00 per sq. ft.

SCHEDULE "B"

PLANS AND SPECIFICATIONS

List of plans, specifications, and other information required to accompany applications for permits:

1. Site Plan
2. Current Legal Survey for the property
3. Current owner's Deed for the property
4. Floor Plans
5. Foundation Plans
6. Framing Plans
7. Roof Plans
8. Reflected Ceiling Plans
9. Sections and Details
10. Electrical Drawings
11. Heating, Ventilation and Air Conditioning Drawings
12. Plumbing Drawings
13. Fire Alarm and Sprinkler Plan
14. Heat Loss calculations, Duct Design Calculations and a duct layout drawing for the heating and ventilation system(s)
15. Building Code Analysis for the change of use of any building or part thereof; and
17. Any other information required by the Chief Building Official in order to determine that the proposed construction, demolition or change in use will comply with the Building Code, the Act and any other applicable law.

Note: In the context of a specific application or class of applications, the Chief Building Official may, in his or her sole discretion, specify that not all of the above noted plans, and specifications may be required to accompany the application.

SCHEDULE "C"

**ACKNOWLEDGEMENT BY APPLICANT OF AN INCOMPLETE APPLICATION
Pursuant to Sentence 1.3.1.3.(5) of the Ontario Building Code**

Part A (completed by Building Official)

A pre-screening of the application to _____
(describe work)
at _____
(location of work)

reveals that the application is incomplete within the meaning of Section 8 of the Building Code Act, S.O., c.23 as amended.

As such, the application is not entitled to the processing time periods specified for issuance or refusal of a permit as prescribed in Column 3 of Table 1.3.1.3. of the Building Code.

The Municipality will, however, accept the incomplete application for processing provided the following acknowledgement is completed.

Part B (completed by Owner or Authorized Agent)

I, _____, acknowledge that my application
(Print name – Owner or Authorized Agent)
as described above does not meet the requirements of Sentence 1.3.1.3. of the Building Code and therefore, is not entitled to the time periods prescribed in Column 3 of Table 1.3.1.3. of the Building Code.

Notwithstanding the above, I wish to have the application accepted for processing and understand that a permit cannot be issued until all the information is submitted and reviewed for compliance.

Declaration of
Applicant _____
(Signature) *(Date)*

I have the authority to bind the corporation or partnership (if applicable)

SCHEDULE "D"

REFUND POLICY

- 1) The fees that may be refunded shall be a percentage of the fees payable under this by- law, as follows:
 - i) 80% if administration functions only have been performed;
 - ii) 70% if administration and zoning functions only have been performed;
 - iii) 45% if administration, zoning and plan examination functions have been performed;
 - iv) 35% if the permit has been issued and no field inspections have been performed after the permit has been issued;
 - v) 35% if the permit has been issued, less an additional 5% for each field inspection that has been performed after the permit has been issued.
- 2) Notwithstanding Section 1 above, no refund shall be made of an amount of \$75.00 or less.

NOTE: The administrative steps and the percentages could be varied to reflect the local conditions. Percentages shown are for illustration purposes only and are not intended to be representative.