

**THE CORPORATION OF THE TOWN OF GANANOQUE
BY-LAW NO. 2022-050**

**BEING A BY-LAW TO PROVIDE FOR THE CONSTRUCTION,
DEMOLITION, CHANGE OF USE AND 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 construction, demolition, change of use, transfer of permits, inspections and the setting and refunding of fees;

AND WHEREAS the Council of the Town of Gananoque passed By-law No. 2022-049, being a By-law to repeal in its entirety the Building By-law No. 2001-015;

AND WHEREAS the Council of the Town of Gananoque received Council Report PD-2022-09, and concurred with the recommendation to establish the Construction, Demolition, Change of Use and Transfer of Permits and Inspection By-law (may be referred to as the Building By-law);

AND WHEREAS the Council of the Corporation of the Town of Gananoque deems it appropriate to pass this amending By-law.

NOW THEREFORE the Council of the Corporation of the Town of Gananoque enacts as follows:

By-law No. 2022–050

**A By-law to provide for the Construction, Demolition, Change of Use
and Transfer of Permits and Inspections**

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1. **Definitions:**

1.1 In this By-law:

- 1.1.1 **Act** means the *Building Code Act*, 1992, S.O. 1992, c.23, as amended.
- 1.1.2 **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.
- 1.1.3 **Architect** means the holder of a license, certificate of practice or a temporary license issued under the *Architects Act* as defined in the Building Code.
- 1.1.4 **Building** means a "building" as defined in subsection 1(1) of the Act.
- 1.1.5 **Building Code** means the regulations made under Section 34 of the Act.
- 1.1.6 **Chief Building Official** means the Chief Building Official appointed pursuant to subsection 3(2) of the Act and by By-law of the Town for the purposes of enforcement of the Act.
- 1.1.7 **Construct** means construct as defined in Subsection 1(1) of the Act, and Construction shall have a corresponding meaning.
- 1.1.8 **Construction Site** means the part of the parcel of land on which Construction or Demolition related activities are occurring, and includes any area for materials and equipment appurtenant to any Construction or Demolition activities. The Construction Site may occupy the entire parcel of land or a portion of the land parcel.
- 1.1.9 **Demolish** means demolish as defined in Subsection 1(1) of the Act; and Demolition shall have a corresponding meaning.
- 1.1.10 **Designer** means an Architect, Engineer or Designer qualified to carry out design activities under the Act.
- 1.1.11 **General Fees and Rates By-law** means By-law No. 2016-047, as amended.
- 1.1.12 **Inspector** means an employee of the Town appointed pursuant to subsection 3(2) of the Act and by By-law of the Town for the purposes of enforcement of the Act.
- 1.1.13 **Owner** means the registered owner of the property on which the Work will take place and includes a lessee, mortgagee in possession, and the authorized agent in lawful control of the property.
- 1.1.14 **Permit** means permission or authorization given in writing from the Chief Building Official to perform work, to change the use of a building or part thereof, or to occupy a building or part thereof, as regulated by the Act and Building Code.
- 1.1.15 **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.
- 1.1.16 **Professional Engineer or "Engineer"** means a person who holds a license or temporary license under the *Professional Engineers Act*, as defined in the Building Code.

1.1.17 Public Way means “public way” as defined in Ontario Regulation 213/91, as amended.

1.1.18 Registered Code Agency means a registered code agency as defined in Subsection 1(1) of the Act.

1.1.19 Sewage System means a Sewage System as defined in Article 1.4.1.2 of Division A of the Building Code.

1.1.20 Town means the Corporation of the Town of Gananoque.

1.1.21 Work means Construction or Demolition or change of use or plumbing for a Building which is regulated by the Act and the Building code.

1.2 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.

2. Classes of Permits

2.1 The Classes of Permits are detailed in the General Rates & Fees By-law.

3. Permits

3.1 To obtain a Permit, the Owner or an agent authorized in writing by the Owner shall first pay the required fee and shall file an application in writing, or where applicable, electronically in the case of an online application by completing a prescribed form.

3.2 Every application for a Permit shall be submitted to the Chief Building Official.

3.2.1 Application for Permit to Construct

Where application is made for a Construction Permit under Subsection 8(1) of the Act, the Applicant shall:

3.2.1.1 Use the provincial application form, “Application for a Permit to Construct or Demolish”, and;

3.2.1.2 Include complete plans and specifications, documents and other information as required by Article 1.3.1.3 of Division C of the Building Code and as described in this By-law for the Work to be covered by the Permit.

3.2.2 Application for Permit to Demolish

Where application is made for a Demolition Permit under Subsection 8(1) of the Act, the applicant shall:

3.2.2.1 Use the provincial application form, “Application for a Permit to Construct or Demolish”, and;

3.2.2.2 Include complete plans and specifications, documents and other information as required by the Building Code and as described in this By-law for the Work to be covered by the Permit, and;

3.2.2.3 Include the following:

3.2.2.3.1 Proof satisfactory to the Chief Building Official that arrangements have been made with the proper authorities for the cutting of from all services, and;

3.2.2.3.2 Written confirmation on the Town’s prescribed form 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.

3.2.3 Conditional Permits

Where a request is made for a conditional Permit in association with a pending application for a Permit to Construct under Subsection 8(3) of the Act, the Applicant shall:

3.2.3.1 Use the Conditional Permit application form authorized by the Chief Building Official;

- 3.2.3.2** Include complete plans and specifications, documents and other information as required by the Building Code and as described in this By-law for the Work to be covered by the Permit.
- 3.2.3.3** Submit in writing the reasons why the Applicant believes that unreasonable delays in construction would occur if a Conditional Permit is not granted.
- 3.2.3.4** Submit a written list of the necessary approvals which must be obtained in respect of the proposed Building and the time in which such approvals will be obtained.
- 3.2.3.5** Provide the date by which Plans, and specifications of the complete Building will be filed with the Chief Building Official.
- 3.2.3.6** Shall pay the non-refundable conditional Permit fee in addition to any other fees.
- 3.2.3.7** Shall provide security as specified in the Conditional Permit Agreement and which will be subject to forfeiture in the event of any breach of said agreement.
- 3.2.3.8** Shall provide confirmation noted on the Plans that the design has been in conformance with the Ontario Building Code, as amended, and all Applicable Law.

3.2.4 Application for Change of Use Permit

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

- 3.2.4.1** Use the Provincial application form, "Application for a Permit to Construct or Demolish";
- 3.2.4.2** Identify and describe in detail the current and proposed occupancies of the Building or part of a Building for which the Application is made, and;
- 3.2.4.3** Include complete 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 existing Sewage System, if any; and any other drawings, documentation and other information required by the Chief Building Official to issue a Building Permit.

3.2.5 Application for Sewage System Permit

Where application is applied for a Sewage Permit issued under Subsection 8(1) of the Act, the Applicant shall:

- 3.2.5.1** Use the provincial application form, "Application for a Permit to Construct or Demolish".
- 3.2.5.2** Include complete Plans and specifications, documents and other information as required by the Building Code and as described in this By-law for the Work to be covered by the Permit.
- 3.2.5.3** Include a site evaluation which shall include the following items, unless otherwise specified by the Chief Building Official:
 - 3.2.5.3.1** The date the evaluation was done;
 - 3.2.5.3.2** Name, address, telephone number and signature of the person who prepared the evaluation, and;
 - 3.2.5.3.3** A scaled map of the site showing the following:
 - Legal description, lot size, property dimensions, existing right of way, easements or municipal utility corridors;
 - Location of items listed in Column 1 of Tables 8.2.1.6.A., 8.2.1.6.B. and 8.2.1.6.C. of the Building Code;
 - Location of the proposed Sewage System;

- Location of any unsuitable, disturbed or compacted areas;
- Proposed access routes for system maintenance;
- Depth to bedrock;
- Depth to zones of soil saturation;
- Soil properties, including soil permeability, and;
- Soil conditions, including the potential for flooding.

3.2.6 Application for Transfer of Application or Permit

Where application is made for a Transfer of Permit because of a change of ownership of the land, as permitted under Section 7 (h) of the Act, the Applicant shall:

- 3.2.6.1** Make such request in writing to the Town.
- 3.2.6.2** Provide the names and addresses of the previous and new land owner.
- 3.2.6.3** Provide the date that the land ownership change took place;
- 3.2.6.4** Describe the Permit that is being transferred.
- 3.2.6.5** Provide written confirmation from the original Permit Holder or owner that the permit is to be transferred;
- 3.2.6.6** Provide written confirmation from the Designers that use of their drawings for this Permit is acceptable.
- 3.2.6.7** Provide new drawings where the drawings which formed the basis of the original Permit issuance were prepared by the original owner and the owner is not a "Designer".
- 3.2.6.8** Upon the transfer of the Permit by the Chief Building Official, the new Owner shall be the Permit Holder for the purpose of this By-law, the Act and the Building Code.

3.2.7 Request for Partial Occupancy Permit

Where a request is made for a Partial Occupancy Permit under Section 11 of the Act and the Building Code where applicable, the Applicant shall:

- 3.2.7.1** Use the application for partial occupancy form authorized by the Chief Building Official;
- 3.2.7.2** Include complete plans and specifications, documents and other information as required by Article 1.3.3 of Division C of the Building Code;
- 3.2.7.3** Include a statement indicating the expected occupancy dates, and the portions of the Building to be occupied, and;
- 3.2.7.4** Obtain all necessary Permits and approvals from other Municipal Departments or outside agencies having jurisdiction.

3.2.8 Request for Alternative Solution Approval

3.2.8.1 Where a request is made for approval of an Alternative Solution under Section 9 of the Act and the Building Code where applicable, the Applicant shall:

- 3.2.8.1.1** Use the application for an alternative solution form prescribed by the Chief Building Official, and;
- 3.2.8.1.2** Include supporting documentation and test methods demonstrating that the proposed alternative solution will provide the level of safety and performance required by the Building Code.
- 3.2.8.1.3** Equivalents which are accepted under this subsection shall be applicable only to the location to which the approval is given and are not transferable to any other Permit to Construct.
- 3.2.8.1.4** In addition to the minimum non-refundable fee, the Owner or Permit Holder shall pay any additional costs that may be incurred by the Town in relation to the evaluation process as determined by the Chief Building Official.

- 3.3** 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,
- 3.3.1** Application shall be made, and all applicable fees paid for the complete project, and;
- 3.3.2** 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;
- 3.3.3** Where a partial Permit is requested the application is deemed to be incomplete.
- 3.4** 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.
- 3.5** 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.
- 3.6** Where the Chief Building Official determines that an application is incomplete, the Chief Building Official may commence to process the application if the Applicant acknowledges that the application is incomplete and submits the acknowledgement of incomplete application form authorized by the Chief Building Official.
- 3.7** A Permit to Construct a temporary Building may be issued by the Chief Building Official authorizing, for a limited time only, the erection and existence of a Building or part thereof.
- 3.8** No person shall make a material change or cause a material change to be made to a Plan, specification, document or other information on the basis of which a Permit was issued without notifying, filing details with and obtaining the authorization of the Chief Building Official. Substantial changes may constitute a revised submission and additional fees may be charged as per the General Rates & Fees By-law.
- 3.9** The Chief Building Official may, as the Chief Building Official deems appropriate, provide prescribed forms in an electronic format and may allow for the electronic submission of completed Permit application forms.

4. Plans and Specifications

- 4.1** 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.
- 4.2** Each application shall, unless otherwise specified by the Chief Building Official such as for electronic versions, be accompanied by two (2) complete sets of all plans and specifications and shall include the nature and extent of the Work and proposed use and occupancy.
- 4.3** Plans shall be drawn to scale on paper, electronic media approved by the Town or other durable material and shall be legible.
- 4.4** 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 certified by a Registered Ontario Land Surveyor shall be submitted to the Chief Building Official. Site plans shall show the following:
- 4.4.1** Lot size, lot coverage and the dimensions of property lines and setbacks to any existing or proposed Buildings;

- 4.4.2 Existing and proposed ground levels or grades;
 - 4.4.3 Existing rights-of-way, easements, private services and municipal services above and below grade, and;
 - 4.4.4 Location of fire access routes.
 - 4.5 On completion of the foundation, the Applicant shall submit and have approved, a Building location survey prepared by a registered Ontario Land Surveyor, including the top of foundation prior to the commencement of framing or above grade Works where required by the Chief Building Official.
 - 4.6 Upon completion of the Construction of a Building, the Chief Building Official may require the Owner to provide a set of as-constructed Building Plans, including a Plan of Survey by a registered Ontario Land Surveyor showing the location of the Building, at the Owners cost.
 - 4.7 Plans and specifications furnished according to this By-law or otherwise required by the Act become the property of the Town and will be disposed of or retained in accordance with relevant legislation and the Town's Records Retention By-law.
 - 4.8 The Chief Building Official may require additional information to be provided at any time prior to the completion of the Work.
 - 4.9 The issuance of a Permit, the review of the drawings and specifications, or inspections made by the Chief Building Official shall not in any way relieve the Owner of a Building from full responsibility for carrying out the Work or having the Work carried out in accordance with the requirements of this By-law and the Building Code, including ensuring that the occupancy of the Building, or any part thereof, is in accordance with the Terms of this By-law and the Building Code.
- 5. Registered Code Agencies**
- 5.1 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 the Building Code.
 - 5.2 The Registered Code Agency may be appointed to perform one or more of the specified functions described in Section 15.15 of the Act.
- 6. Fees and Refunds**
- 6.1 The Chief Building Official shall determine the required fees for the Work proposed calculated in accordance with the General Fees & Charges By-law and no Permit shall be issued until the fees are paid. For classes of Permits not described in the General Fees and Charges By-law a reasonable Permit fee shall be applied by the Chief Building Official.
 - 6.2 Any person or Corporation who commences construction, demolition or changes the use of a Building prior to issuance of a Permit, shall in addition to any other penalty under this Act, Building Code, or in this or any other By-law pay an additional non-refundable fee in order to compensate the Town for the additional Work incurred by such early start of Work.
 - 6.3 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. No refund shall be applied where the Permit has been revoked, except where the Permit was issued in error. Any request for a Permit refund must be made by the Applicant in writing within twelve (12) months of the date of Permit application. Refunds requested after this time will not be considered.

- 6.4** The amount of Permit fees to Construct or Demolish that may be refunded shall be the total fees paid less the cumulative percentage of fees applicable to the administration, review and inspection functions undertaken prior to receipt of the written request to the Chief Building Official as follows:
- 6.4.1** Forty-five (45) percent if any of administrative, zoning or plan examination functions have been performed;
 - 6.4.2** Thirty-five (35) percent if the Permit has been issued and no field inspections have been performed after Permit issuance;
 - 6.4.3** Five (5) percent shall be deducted for each field inspection that has been performed after the Permit has been issued;
 - 6.4.4** No refund shall be made for an amount less than the minimum Permit fee.
 - 6.4.5** No refund shall be made for a limiting distance agreement, conditional Permit or authorization of an alternative solution.
- 6.5** Refunds shall be paid to the person named on the fee receipt issued by the Town upon payment of the fee, unless the person directs in writing that the fee be refunded to another person.
- 6.6** Where the Chief Building Official determines that a limiting distance agreement is required pursuant to the Act and the Building Code, the Owner shall pay the fee as set out in the General Fees & Charges By-law prior to execution of the agreement by the Chief Building Official who is hereby authorized to execute such agreements on behalf of Council.
- 6.7** The fee is based on Building value which in simplest terms would be the value for which the completed Building would be sold minus land value. If in the sole opinion of the Chief Building Official the stated value appears low, the Chief Building Official may establish the cost of the proposed Work for the purposes of determining the Permit fee. If disputed by the Applicant, the Applicant shall pay the required fee under protest and, within six (6) months of the completion of the project, submit an audited statement to the actual costs. If the audited costs are determined to be less than the cost estimated by the Chief Building Official, a refund of any excess Permit fees shall be made to the Applicant.
- 6.8** Permit Fees will be calculated based upon the information provided on the application form and adjustments will be made, as required, during the review process. The balance of fees owing and adjustments as a result of corrected information, shall be paid upon Permit issuance.
- 6.8.1** The method of payment for Permit fees may be cheque, e-Transfer, Electronic Funds Transfer (EFT) or debit card. Cheques returned for non-sufficient funds shall be replaced by a certified cheque in the amount of the Permit fee plus the administrative charges. Replacement fees not provided within the specified time will result in revocation of the Permit.

7. Offence and Penalty Provisions

- 7.1** 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.

8. Revocation of Permits

- 8.1** Prior to revoking a permit under Subsection 8(10) of the Act, the Chief Building Official shall serve a notice electronically by e-mail, 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.
- 8.2** A Permit Holder may within thirty (30) days from the date of service of a notice under this Part, request in writing that the Chief Building Official 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, Building Code or other applicable law, may allow the deferral, in writing.

- 8.3** Where notice is served by Registered Mail, the recipient shall be conclusively deemed for all purposes to have been served with the notice on the fifth (5th) day after the notice is served.

9. Notice Requirements for Inspections

- 9.1** 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 the Building Code. In addition, the Permit Holder shall provide the notice of completion as prescribed by Section 11 of the Act, or where occupancy is required prior to completion, notice of inspection to ensure that the requirements of Section 11 of the Act and the Building Code are complied with.
- 9.2** A notice pursuant to this Part of the By-law is not effective until notice is received by the Chief Building Official or the Registered Code Agency and the Permit Holder receives confirmation by the Town or the Registered Code Agency.
- 9.3** Upon receipt of written 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 the Building Code and Section 11 of the Act.
- 9.4** Where an inspection has been made, and the Applicant, Owner or contractor is made aware of any Building Code contraventions, and a re-inspection has been requested and carried out by the Town and it is determined that the contraventions have not been remedied, the cost of carrying out any further inspections shall be charged to the Applicant, Owner or contractor at the rate outlined in the General Fees and Rates By-law.

10. Deposits

- 10.1** An Applicant for a Building Permit for construction, renovation, alteration or demolition valued at the limit and at a rate established in the General Fees & Rates By-law, shall make a deposit by cash or certified cheque to the Corporation of the Town of Gananoque at the time the application is made and such funds shall be on deposit prior to the issuance of the requested Permit.
- 10.2** If there is any damage to any roadway, street, sidewalk, sewer, watermain or any other public work, the Town of Gananoque may use these funds to repair such damages. If the deposit is insufficient to repair the damages then the Owner will be required to pay the difference.
- 10.3** The Chief Building Official will be the sole judge of any damage.
- 10.4** Upon the completion of the erection, alteration, repair or demolition of the Building or Buildings on the land abutting such sidewalk, curbing or paved boulevard and upon application by the person by whom the deposit was paid, the amount by which the sum deposited exceeds the cost of such repairs shall forthwith be refunded provided all required inspections have been called for, carried out and passed.
- 10.5** The Owner or occupier of the lands shall take all necessary steps to prevent building material, waste or soil from being spilled or tracked onto the public streets by vehicles going to or coming from the lands during the course of erection, alteration, repair or demolition. In addition to any other penalty in this By-law provided, the Owner or occupier shall be responsible to the municipality for the cost of removing such building material, waste or soil, and such cost may be deducted from the deposit.

- 10.6** Any pre-inspections requested, or any inspections required by the Building Permit were not requested, or inspections requested but not ready, or additional inspections requested; the deposit will be reduced by the amounts as scheduled in the General Rates and Fees By-law and such amounts will be forfeited to the Municipality.

11. Administrative Monetary Penalty

- 11.1** Administrative Monetary Penalty for breach of this By-law or the Building Code Act and Regulations is authorized where provided for herein or under the Administrative Monetary Penalty By-law.

12. General Rates and Fees

- 12.1** Rates and Fees for the provisions of this By-law are as prescribed under the General Fees and Rates By-law, as amended.

13. Validity

- 13.1** If a court of competent jurisdiction declares any provision, or any part of a provision, of this By-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this By-law that all other provisions of this By-law authorized by law be applied and enforced in accordance with its terms to the fullest extent possible according to law.

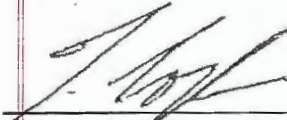
14. Short Title

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

15. Repeal and Effective Date

- 15.1** Any By-law inconsistent with this By-law are hereby repealed in its entirety.
15.2 This By-law shall come into full force and effect on the date it is passed by Council.

Read a first, second and third time and finally passed this 19th day of April 2022.



Ted Lojko, Mayor



Penny Kelly, Clerk

(Seal)