

# City of Port Colborne

## Citizens Guide – A complete Guide to Building/Developing

This guide contains information on the following:

- 1. OFFICIAL PLANS**
- 2. ZONING BY-LAWS**
- 3. SUBDIVISIONS**
- 4. LAND SEVERANCES**
- 5. BUILDING PERMITS**
- 6. APPEALS**

### **1. OFFICIAL PLANS**

Land use planning affects almost every aspect of life in Ontario. It helps decide where in our communities homes and factories should be built; where parks and schools should be located; and where roads, sewers and other essential services should be provided.

Land use planning means managing our land and resources. It helps each community to set goals about how it will grow and develop and to work out ways of reaching those goals while keeping important social, economic and environmental concerns in mind. It balances the interest of individual property owners with the wide interests and objectives of the whole community.

Good planning leads to orderly growth and the efficient provision of services. It touches all of us and helps us to have the kind of community we want.

#### **What is an Official Plan?**

An official plan describes our local and regional council's policies on how land in our community should be used. It is prepared with input from you and your fellow citizens and helps to ensure that future planning and development will meet the specific needs of your community. A copy of the Official Plan can be viewed on this site under City Hall – Official Plan or a copy can be purchased from the Planning Department at City Hall.

An official plan deals mainly with issues such as:

- Where new housing, industry, offices and shops will go
- What services like roads, watermains, sewers, parks and schools will be needed
- When and in what order parts of your community will grow

#### **Why do you need an Official Plan?**

Our municipality's official plan:

- Lets the public know what our municipality's general land use planning policies are
- Makes sure that growth is coordinated and meets our community needs

- Helps all members of our community understand how their land can be used now and in the future
- Helps decide where roads, watermains, sewers, garbage dumps, parks and other services will go
- Provides a framework for setting local regulations and standards, like the size of lots and height of buildings
- Provides a way to evacuate and settle conflicting land uses while meeting local, regional and provincial interests
- Shows our council's commitment to the planned growth of your community

## **What happens next?**

Once an official plan is in effect, it guides all of the municipality's planning decisions. It means that:

- The local council and municipal officials must follow the plan
- All new services, sewer or watermains, for example, must conform to the plan
- All zoning by-laws must comply with the official plan

However, an official plan is not set forever. The plan can also be changed or **amended**, as the community's needs change.

## **What is an official plan amendment?**

An official plan amendment is a formal document that changes a municipality's official plan. Changes may be needed because of new circumstances in the community or because of requests made by property owners. Most municipalities now charge a fee for processing changes requested by members of the public.

All amendments are proposed, discussed and processed in the same way as the original plan. As discussed earlier, when a council considers an official plan/amendment, it shall have regard to the Provincial Policy Statement issued under the Planning Act. (See the section - What is an official plan?).

## **How do you request an official plan amendment?**

If you want to use your property or develop it in a way that conflicts with the municipal official plan, you will need an amendment to the plan.

You should talk first to our municipal planning staff. They can let you know if the change is possible, what problems you might encounter and how you should apply.

When you apply to amend an official plan, you are required to submit information, which is prescribed, by minister's regulation as well as other additional information, which the municipality may require about the amendment. The more information provided, the less likely delays will occur in the review.

You should be aware that if you do not provide all the information prescribed by

minister's regulation, the municipality may refuse to accept or to further consider your request to amend, and the 90-day time frame for making a decision does not begin until the municipality receives all the prescribed information.

Contact our planning staff at (905) 835-2900, ext. 205 or by email at [cityplanner@portcolborne.com](mailto:cityplanner@portcolborne.com) if you need help in assessing what information is required. A copy of the application to amend the Official Plan can be found under on this site under City Hall – Downloads an application fee is also required.

## 2. ZONING BY-LAWS

### What is a zoning by-law?

A zoning **by-law** controls the use of land in our community. It states exactly:

- How land may be used
- Where buildings and other structures can be located
- The types of buildings that are permitted and how they may be used
- The lot sizes and dimensions, parking requirements, building heights and setbacks from the street

An **official plan** sets out our municipality's general policies for future land use. Zoning by-laws put the plan into effect and provide for its day-to-day administration. They contain specific requirements that are legally enforceable. Construction or new development that doesn't comply with a zoning by-law is not allowed, and the municipality will refuse to issue a building permit.

Many municipalities have a **comprehensive zoning by-law** that divides the municipality into different land use zones, with detailed maps. The by-law specifies the permitted uses (e.g. commercial or residential) and the required standards (e.g. building size and location) in each zone.

### What is a zoning by-law amendment?

If you want to use or develop your property in a way that is not allowed by the zoning by-law, you may have to apply for a zoning change, also known as a **zoning by-law amendment** or a **rezoning**. But council can consider a change only if the new use is allowed by the official plan.

Before you apply for rezoning, you should contact planning staff at (905) 835-2900, Ext. 205 for advice and information. You are required to complete an application form, which contains information prescribed, by the minister and any other additional information that the municipality may require. An application form can be found on our Web site under City Hall – Downloads. An application fee is also required.

### How are zoning by-laws evaluated?

When it considers a zoning by-law, the council evaluates it against criteria such as:

- Conformity with the official plan and compatibility with adjacent uses of land
- Suitability of the land for the proposed purpose, including the size and shape of the lot(s) being created
- Adequacy of vehicular access, water supply, sewage disposal
- The need to ensure protection from potential flooding

### **What if you only need a minor change?**

If your proposed change doesn't conform exactly to the zoning by-law, but follows its general intent, you can apply for a minor variance. For example, you might want to locate something on your property but the shape of your lot won't let you meet the minimum setback.

To obtain a minor variance, you will have to apply to your local committee of adjustment appointed by council to deal with minor problems in meeting by-law standards. The committee will hold a hearing and decide on your application. Anyone who disagrees with the decision has 20 days to appeal to the Ontario Municipal Board. The appeal should be filed with the secretary-treasurer of the committee, located on the second floor of City Hall, in the Planning Division. You should set out the reasons supporting the objection and should include the fee required by the Board.

A minor variance does not change a zoning by-law. It simply excuses you from a specific requirement of the by-law and allows you to obtain a building permit.

An application for a minor variance can be found on our Web site under City Hall – Downloads, an application fee is also required.

### **What are site plan control by-laws?**

Site plan control by-laws are not zoning by-laws. They are used to establish areas where site plan control will be applied over and above those set out in the zoning by-laws. These areas must be described in the official plan.

Site plan controls are used to ensure that:

- Developments are built and maintained in the way that council approved
- New developments meet certain standards of quality and appearance
- There is a safe and easy access for pedestrians and vehicles
- There is adequate landscaping, parking and drainage
- Nearby properties are protected from incompatible development

As a condition of site plan approval, municipalities may require the owner to provide land for road widening and public transit rights-of-way. Before municipalities can exercise this power, the road widening and public transit rights-of-way must be shown or described in the official plan. To obtain additional information a copy of the Site Plan

Control Handbook can be viewed under City Hall – Downloads or by contacting the Planning Staff at (905) 835-2901, Ext. 205.

### **What other approvals may be required?**

In addition to the planning approvals and building permit, which are needed for a building project, there are other permits and approvals required in particular circumstances. For example, a septic tank permit is required for a new septic system. In cottage areas, a permit may be required from the Ministry of Natural Resources before you do any construction in the water (for example, a dock or boathouse with solid foundation).

## **3. SUBDIVISIONS**

### **What is a subdivision?**

When you divide a piece of land into two or more parcels in order to sell one or more, you are subdividing property, and the provisions of the Planning Act come into play.

To subdivide land, you need approval of a plan of subdivision.

Subdivision approval ensure that:

- The land is suitable for its proposed new use
- The proposal conforms to the official plan in your community, as well as to provincial legislation and policies
- You, your neighbours and your community are protected from developments which are inappropriate or may put an undue strain on community facilities, services or finances

If your proposal involves creating only a lot or two, you may seek approval for a “land severance” instead.

### **What is a registered plan of subdivision?**

A registered plan of subdivision is a legal document that shows:

- The exact surveyed boundaries and dimensions of lots on which houses or buildings are to be built
- The location, width and names of streets
- The sites of any schools or parks

The plan does not show specific building locations; these are set out in the zoning by-law and site plan approval.

The plan of subdivision must be:

- Surveyed by an Ontario land surveyor
- In general conformity with the municipal official plan and with any county, regional or district plan as well as provincial policies
- Approved by the proper authority
- Registered in the local land registry system

A registered plan of subdivision creates new, separate parcels of land and can be legally used for the sale of lots. It should not be confused with “compiled plans” or “reference plans” which are used simply to describe parcels of land.

### **What is the process for subdividing?**

If you are thinking about subdividing your property, discuss your proposal first with planning staff. They can tell you what information you will need to provide and whether the local official plan and/or zoning by-law will have to be amended before your subdivision can be allowed.

As an applicant, you are required to fill out a subdivision application form. A copy of the application can be found on our Web site under City Hall – Downloads.

A typical application form contains both the information, which is prescribed by minister’s regulation, as well as other additional information, which the approval authority may require about the draft plan of subdivision. The more information provided, the less likely delays will occur in the review.

The approval authority must give notice of application and hold a public meeting before a decision is made. Notice of the public meeting is given at least 14 days in advance. Usually through local newspapers or by mail. Anyone present at the meeting has a right to speak about the proposal.

The approval authority may consult with agencies, boards, authorities or commissions before making a decision.

### **What is draft approval?**

Having considered your application, the approval authority may either “draft approve” or refuse your subdivision proposal.

If your application is draft approved, you will be advised of any conditions to be met in order to obtain final approval and registration. Conditions of draft approval may include: road widening, the naming of streets, parkland requirements, rezoning of the area to reflect the new uses in the subdivision, and any other municipal requirements. In addition, draft approval may also include a lapsing provision, which establishes a time frame within which the conditions must be met or the draft approval will lapse.

In most cases, the developer may be required to sign a subdivision agreement with the municipality to ensure that certain services such as sidewalks and roads are provided after

the plan has been registered.

### **When can a subdivision be registered?**

When all conditions of the draft approval have been met, final approval is given and the plan of subdivision is registered in the provincial land titles or registry system. The developer may then go ahead with the sale of lots in the subdivision.

You should be aware that considerable time might pass between draft approval and actual registration of the plan. However, the approval authority has the power to provide that draft approval will lapse after three years. It also has the power to give a further extension of draft approval.

### **When must services be provided?**

Although many services for new subdivisions are not provided until well after registrations, most municipalities insist that they be in place before new residents move into their new home. The applicant may be required to sign a detailed subdivision agreement, which is sometimes registered on the title of the property and legally binds future owners to its conditions.

## **4. LAND SEVERANCES**

### **What is a land severance?**

A land severance is the authorized separation of a piece of land to form two new adjoining properties. This is commonly known as consent. It is required if you want to sell, mortgage, charge or enter into any agreement for (at least 21 years) a portion of your land. If the two parts are split already, by a road or railway for example, consent is not needed.

Official plans have specific policies and requirements for land severance. In addition to the division of land, rights-of-way, easements and any change to your existing property boundaries also require land severance approval.

If several severances are intended in the same area, a plan of subdivision may be more appropriate. It is up to the consent-granting authority in your area to decide whether consent is the best approach or if a plan of subdivision is necessary for the proper and orderly development of your community.

### **Why do I need approval to sever my land?**

The indiscriminate division of land without anyone's approval could have a long-term, negative impact on your community. For example, it could result in over-extension of municipal services, such as snow plowing, school busing and garbage collection. Or it

might result in damage to the natural environment, because lots are too small to accommodate adequate sewage disposal systems.

Official approval is required to ensure that:

- Land severances are considered within an established community planning framework
- New lots and new land uses do not conflict with the overall future planning goals and policies of your community
- Consideration is given to the effects of the division of land on the site, on the neighbours and on the community as a whole

Once a severance has been approved, the new land parcels may be sold or resold without further approval. The only exception is if the consent-granting authority has specified otherwise at the time of approval.

### **What is the process for a severance application?**

Before you apply for a land severance, you should consult with municipal staff and/or the consent-granting authority in your area.

When applying for a land severance, you may be charged a fee for processing the application. To determine the processing fee in your area, contact the appropriate consent-granting authority.

You are required to fill out a consent application form provided by the consent-granting authority. A copy of the application form can be found on our Web site under City Hall – Downloads or by contacting Planning Staff.

A typical application form contains both the information, which is prescribed by minister's regulation, as well as additional information, which the consent-granting authority may require. The more information provided, the less likely delays will occur in the review.

The consent-granting authority must give notice of application before a decision is made. Notice of application is given at least 14 days in advance of a decision by the consent-granting authority, usually through local newspapers or by mail. Any person or public body may submit his or her views to the consent-granting authority.

The consent-granting authority may consult with agencies, boards, authorities or commissions before making a decision.

When the consent-granting authority has decided on your application, it is required to send a notice of decision approving or refusing the application within 15 days of the decision being made, to any person or public body requesting to be notified. When a notice of decision is given, a 20-day appeal period follows.

### **What about conditions of severance approval?**



A severance approval may have certain conditions attached to its including requirements for road widening, parkland dedication, or a rezoning (or minor variance) to allow a new land use. In addition, the property owner may be required to enter into an agreement with the municipality to provide future services or facilities. Severance conditions must be met within one year.

When the applicant has met all the conditions, the authority issues a certificate, and the severance goes into effect.

If the transaction originally applied for - sale of property, for example - is not carried out within two years of the date of the certificate, the severance is considered lapsed. The consent-granting authority can specify an earlier lapsing date at the time of the severance decision.

## **5. BUILDING PERMITS**

### **What is a building permit?**

A building permit is formal approval from your municipality to construct, add to or renovate a building on your property.

### **Why do you need a building permit?**

Building permits allow a municipality to protect the interests of both individuals and the community as a whole. By reviewing and approving plans before any work is done, the municipality can ensure that buildings comply with:

1. the Ontario Building Code, which sets standards for design and materials
2. the local zoning by-law and its controls on buildings and uses that are suitable to the area
3. other health and safety regulations

### **When do you need a building permit?**

You must obtain a building permit before you:

- put up any new building or place another structure such as a mobile home on your property
- repair or add to a building
- excavate or construct a foundation
- install heating, plumbing, air conditioning or a fireplace
- put up a temporary building

If you're not sure whether you need a building permit or you wish to change the use of your building, call the building department at (905) 835-2901, Ext. 229. Staff can answer your question immediately, or send a building inspector to look at what you plan to do and tell you what you need.

## **How do you apply for a building permit?**

You can get an application for a building permit from City Hall or download an application from this site. But it's a good idea to talk to the staff before you apply. They can tell you what information, drawings and plans you'll have to include with the application and whether you'll need any other permits or approvals.

When you apply you'll have to attach sketches, plans, and other documents. You may also have to pay a fee for the application and for other services as a property survey or a hook-up to the municipal water supply.

## **What happens to your application?**

Municipal building staff will review your application to confirm that the proposed work complies with the Ontario Building Code and the local zoning by-law. They may also send it to other municipal officials for comments. If there are problems with your application or your plan, the staff will tell you why and will show you what you have to do.

Applications for a simple alteration or addition can be processed fairly quickly, but more complex proposals may take longer. If you need a zoning change or a minor variance from the zoning by-law, or if the work does not comply with the building code, a permit will not be issued until all the changes have been made.

If your property is covered by a site plan control by-law you will not get a building permit until you have met all the requirements set out in the by-law.

## **What happens during construction?**

Building permits often list the kinds of inspections that will have to be done during construction. A building inspector will inspect the work to determine if it is carried out in accordance with the building code, your permit, and the approved plans.

You will also be required to:

- show your permit in a window or other place where it can be easily seen
- keep copies of the plans on the site
- contact the municipality at the appropriate stages of construction for inspections
- tell the municipality about any last-minute changes, which will also have to be approved

The inspector must always be able to see the work. If it's different from the work that was approved, you will be told to correct it. If you don't, the municipality can take legal action.

## **What about demolition?**

Before you take down all or part of a building, you will have to apply for a demolition permit. The process is much the same as for a building permit, but some special situations may affect your application. A copy of the Demolition Permit can be found on our Web site under City Hall – Downloads.

In a demolition control area, for example, you will not be able to demolish a residential property until you have received a building permit for new construction.

Or, because of the building's historic or architectural importance, it may be designated, or be intended for designation as a heritage building under the Ontario Heritage Act. In that case demolition will require Council's approval and there may have to be negotiations over how some of the unique character of the building can be preserved.

## **What if you want to change a building's use?**

If you want to change the way you use all or part of your building you may need a change of use permit, even if you're not planning any construction. A building evaluation may have to be done to make sure that the existing building can support the proposed use. Different uses have different code requirements.

Call the building department to find out whether you will need a change of use permit.

## **What happens if you don't get a building permit?**

Anyone who is charged and found guilty of building without a permit can be fined up to \$25,000 for a first offence and up to \$50,000 for later offences.

Fines can also be imposed if you don't follow an order from the building department.

## **What other approvals may be required?**

In addition to planning approval and building permit which are required for a building project, there are other permits and approvals required in particular circumstances. For example, a septic tank permit is required for a new septic system. In cottage areas, a permit may be required from the Ministry of Natural Resources before you do any construction in the water (for example, a dock or boathouse with solid foundation).

## **Building Permit Fees**

To excavate, erect, alter, repair a building including a building intended for farm and farming purposes and the moving of a building these are the following permit fees. The current Building Fees can be found on our Web site under City Hall – Downloads or by contacting Building Staff.

## **6. APPEALS**

### **Planning Process**

You may appeal to the Ontario Municipal Board (OMB) directly by writing to the secretary of the OMB, 655 Bay Street, 15th Floor, Toronto, Ontario M5G 1E5 or by filing a notice of appeal with the municipal clerk as follows:

1. Any person or public body may appeal an approval authority's decision, conditions and/or lapsing provision within 20 days of the notice of decision being given.
2. The applicant or any public body may appeal conditions of approval at any time before final approval.
3. The application may appeal if no decision is made within 90 days from the date of receipt by the approval authority of the application containing the prescribed information.
4. Any person or public body may appeal any changed conditions imposed by the approval authority within 20 days after the notice of changed conditions has been given.
5. OMB appeal fees must be submitted at the time of filing.

### **Building Process**

If the Building Division refuses or fails to act on your request within 30 days after the prescribed information is submitted, you may appeal to your City Council by filing a notice of appeal with the City Clerk located on the first floor of City Hall. The application for notice of appeal may be found on our Web site under City Hall – Downloads or by contacting Building Staff