

THE CORPORATION OF THE MUNICIPALITY OF PORT HOPE
BY-LAW NO. 64/2022

Being a By-law to Establish the Organizational Structure of the Municipality of Port Hope for the purpose of assisting the Historic Waste Program Management Office (HWP MO) for the duration of the Port Hope Area Initiative's Port Hope Project Phase 2 works (Project) and Repeal By-law 50/2014.

WHEREAS Section 8 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, authorizes a municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS the 2001 Legal Agreement that established the Port Hope Area Initiative (PHAI) provides that Canada will pay or assume the cost of the cleanup work, and that Canada will reimburse the Municipality for reasonable future expenses for the duration of the PHAI;

AND WHEREAS the Agreement for the Cleanup and the Long-term Safe Management of Low-level Radioactive Waste Situate in the Town of Port Hope, The Township of Hope (now the Municipality of Port Hope) and the Municipality of Clarington, as amended October 2006 (Agreement) supports the establishment of offices or programs that may be necessary to defer undue hardship or expense to the Municipality with regard to the Port Hope Project;

AND WHEREAS the Agreement supports the Municipality taking appropriate actions necessary to expedite the completion of the Project;

AND WHEREAS Section 7 of the Building Code Act, S.O. 1992, c. 23 provides that municipalities may pass by-laws respecting construction, demolition and change of use permits and inspections;

AND WHEREAS Section 23 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a municipality is authorized to delegate its powers and duties under this or any other Act to a person or body subject to the restrictions set out in this Part;

AND WHEREAS the Council of the Corporation of the Municipality of Port Hope deems it expedient to delegate certain powers and duties to the Environmental Remediation Division of the Works and Engineering Department;

AND WHEREAS the Standard Operating Procedures and Guidelines (SOPs/SOGs) gives special consideration to expedite the Port Hope Project and are developed to guide the Environmental Remediation staff and are a codification of the typical Municipal and best practices when exercising its authorities;

NOW THEREFORE the Council of the Corporation of the Municipality of Port Hope hereby enacts as follows:

1. THAT Port Hope Municipal Council hereby authorize the delegation of certain powers and duties generally described herein, and formalised in the Standard Operating Procedures (SOPs) and Standard Operating Guidelines (SOGs), to municipal staff.
2. THAT the HWP MO shall be granted certain exemptions from Municipal fees, charges, permitting requirements and By-laws as described in this By-law and any intent therein.
3. THAT By-law 50/2014 is hereby repealed in its entirety.

Section 1: Definitions

- 1.1 “CAO” is the Chief Administrative Officer of Municipality of Port Hope.
- 1.2 “CBO” means the Municipality of Port Hope Chief Building Official or designate of the Municipality. Also referred to as the MPH CBO.
- 1.3 “Deputy CBO” means the individual who will assume responsibility for and carry out the duties normally attributed to the CBO related to PHAI project works. The Deputy CBO may review building permit applications submitted by the HWP MO and their designates, facilitate their approval coordinate or perform inspections for PHAI project work and will operate as a delegated authority under the authority of the CBO on all building matters and consult with the CBO as necessary under the Act. Also referred to as the MPH Deputy CBO.
- 1.4 “Environmental Remediation Division / Staff” means those individuals assuming responsibilities for, or carrying out, duties related to the Project and these individuals may be comprised of MPH staff members and/or individuals or consultants contracted for, and specifically assigned by MPH to the Project
- 1.5 “MPH” means the Corporation of the Municipality of Port Hope.
- 1.6 “PHAI” means the entity known as the Port Hope Area Initiative (PHAI) established by and/or on behalf of the Government of Canada to oversee the removal and safe storage of low-level radioactive waste situate in Municipality of Port Hope and the Municipality of Clarington.
- 1.7 “HWP MO” means the management office of the Historic Waste Program.
- 1.8 “Port Hope Project” or “Project” means that portion of PHAI works that are physically located within the Municipality of Port Hope municipal boundary.
- 1.9 “Port Hope Project Phase 2 Works” mean all construction works associated with the HWP MO that are within the Municipality of Port Hope municipal boundary.
- 1.10 “SOGs/SOPs” means Standard Operating Guidelines (SOGs) and Procedures (SOPs) that have been developed by the Municipality of Port Hope for use on PHAI projects and are a codification of the statutory and/or typical Municipal and best practices and standards.

Section 2: Operational Structure and Responsibilities

- 2.1 Based on municipal needs and the authority that may be granted by the Municipality, a division of Works and Engineering is generally envisioned for MPH for the purposes of managing works related to the project. MPH job descriptions shall be approved by the CAO, may be amended by the CAO or designate from time to time. The Environmental Remediation Division may include the following staff:
 - (a) Manager
 - (b) Deputy Chief Building Official or designate
 - (c) Building Inspector or designate
 - (d) Roads and Structural Inspector(s) or designate
 - (e) Water and Wastewater Inspector(s) or designate

- (f) Financial/Administrative Support / Project Coordinator or designate
- (g) Other positions or resources identified by the CAO or Director, Works and Engineering, in consultation with the CAO, to assist in dealing with unanticipated or excessive workload directed to MPH.

Alternatively, Municipal staff may fulfill the Project associated roles as Project related activities allow and/or as determined by the CAO or designate.

- 2.2 Specific MPH responsibilities are detailed under the Roles and Responsibilities section in the Standard Operating Guidelines and Procedures that have been developed by the MPH for use on PHAI projects (SOGs/SOPs).
- 2.3 The CAO or designate, in consultation with the relevant MPH staff and/or Municipal Director is hereby delegated the authority to adjust the SOPs/SOGs as may reasonable and feasible to give effect to the Project within the scope of the Legal Agreement and the spirit of this bylaw as the Project evolves and moves forward.
- 2.4 In general terms, the MPH will ensure that:
 - (a) Regular and meaningful communication, consultation and cooperation is maintained as a priority between all parties and stakeholders
 - (b) Proactively facilitate and adequately support the review and/or approval of restoration plans and permit applications related to MPH lands and non-municipal lands that require approval because of potential impacts to adjacent municipal infrastructure or adjoining properties within the MPH legal boundary.
 - (c) Unforeseeable project challenges and MPH concerns associated with the Port Hope Project are resolved in a timely manner
 - (d) MPH obligations and permitting requirements as prescribed by federal, provincial and other outside or internal authorities and agencies are fulfilled
 - (e) Current and evolving MPH standards and best practices are adhered to for the duration of the Port Hope Project; and
 - (f) Any outstanding issues related to warranty or monitoring periods are honoured subsequent to Substantial Performance of associated works.
- 2.5 Reasonable expenses to maintain the MPH, including costs for the preparation of any necessary revisions to the SOGs/SOPs, are to be borne by the HWP MO in accordance with the Legal Agreement and as such the HWP MO will not be responsible for any MPH permitting or other applicable fees that may otherwise apply to and for the duration of the Port Hope Project.

Section 3: Authority of the Deputy CBO

- 3.1 The HWP MO and HWP MO designates will be required to fulfill all legislated requirements with regard to obtaining permits from the office of the CBO on all lands not currently under Federal jurisdiction. To expedite this process, the Deputy CBO will assist the HWP MO and HWP MO designates as appropriate in submitting permit applications, obtaining required permits and assisting with inspections as they may be required. The Deputy CBO will act under the authority of the CBO on all building matters and consult with the CBO as necessary under the Ontario Building Code Act.
- 3.2 Powers granted under the Act also include the authority for a CBO to issue a stop work order under certain conditions as defined in the Act.

These powers are granted independent of any agreement that may exist between the HWP MO and the Municipality of Port Hope. Compliance with stop work orders issued by the CBO is mandatory and enforceable under the laws and statutes of the province of Ontario.

- 3.3 Every effort will be made by the office of the CBO to assist the HWP MO with regard to their responsibilities under the Ontario Building Code Act.

Section 4: Authority to Permit Tree Removal, Temporary Entrances and Street Occupation

- 4.1 The Environmental Remediation Division of the Works and Engineering Department is granted the authority as described in the SOGs/SOPs to provide Tree Removal Permits, Temporary Entrance Permits, Street Occupation Permits (also known as Road Occupancy Permits—R.O.P.'s) and approve necessary road closure requests that may be required by the HWP MO and HWP MO designates for the purpose of completing Port Hope Project Phase 2 works.

Section 5: Waiver of MPH Permitting and other Related Fees for PHAI

- 5.1 For the purpose of completing Port Hope Project Phase 2 works, the HWP MO and HWP MO designates are exempt from applicable MPH permitting and other related fees as described in the MPH Consolidated Fees and Services By-law, as amended; however, they are to abide by the intent of the By-law and associated permitting requirements as outlined in the SOGs/SOPs as they relate to the Port Hope Project.

Section 6: PHAI Exemption from Site Alteration and Fill By-law, as amended.

- 6.1 For the purpose of completing Port Hope Project Phase 2 works, the HWP MO and HWP MO designates are exempt from the permitting requirements and fees as stated in the MPH Site Alteration and Fill By-law 47-2012, as amended; however, they are to adhere to the intent of the By-law and abide by all site alteration and fill requirements as outlined in the SOGs/SOPs.

Section 7: General Provisions

- 7.1 The provisions of this By-law shall apply to all public lands, premises and infrastructure that are subject to the Port Hope Project within the Municipality.
- 7.2 All references to legislation in this By-law are references to legislation of the Province of Ontario, as amended from time to time, including successor legislation, whether enacted prior to or subsequent to the enactment of this By-law.
- 7.3 This By-law shall be administered by Municipal staff, as required in accordance with this By-law and as authorized by Port Hope Municipal Council by bylaw, and or a Resolution of Council and or by the CAO or designate.
- 7.4 In application of the SOGs / SOPs, any existing non-conforming structures to the Zoning By-law and /or where existing non-conforming setbacks exist, may be re-instated whether deemed legal non-conforming or not in accordance with the provisions of Schedule A attached to this By-law.

Section 8: Force and Effect

- 8.1 This By-law shall come into force and effect on the day that it is passed.

Section 9: Severability

- 9. Each section of this By-law is an independent section, and the holding of any section or part of it to be void or ineffective for any cause shall not be deemed to affect the validity of any other sections or parts of it.

Section 10: Repeal

- 10.1 That By-law 50/2014 is hereby repealed.

READ a FIRST, SECOND and THIRD time and finally passed in Open Council this 20th day of September 2022.

Bob Sanderson, Mayor

Brian Gilmer, Clerk

SCHEDULE "A" to By-law 64/2022

POLICY TO GUIDE REMOVAL AND REPLACEMENT OF STRUCTURES ON PRIVATE PROPERTY IN CONJUNCTION WITH PHAI REMEDIAL ACTIVITIES

WHEREAS the Port Hope Area Initiative [PHAI] is undertaking remediation of low level radioactive waste [LLRW] on private and public lands throughout the Municipality of Port Hope [the Municipality];

AND WHEREAS it may be necessary in several instances to move, remove and/or replace structures on private property to facilitate proper remediation;

AND WHEREAS some of the structures to be moved, removed and/or replaced may in their current, existing locations fail to conform to the applicable provisions of the applicable Municipal Zoning By-law;

AND WHEREAS the Municipality does not wish to slow down the remediation process or burden the Committee of Adjustment with numerous Minor Variance applications with respect to such structures being moved, removed and/or replaced as a result of the Port Hope Project;

AND WHEREAS the Municipality has a discretion with respect to the enforcement of, and compliance with, its' Zoning By-laws;

AND WHEREAS the Municipality adopts the policy set out below subject to the strict terms and conditions and restrictions set out below;

NOW THEREFORE BE IT RESOLVED THAT:

1. This policy shall **only** apply to the moving, removing and/or replacement of non-habitable structures as a direct result of remediation works undertaken on private or public property pursuant to the Port Hope Project remediation program.
2. In the event that, as a direct result of the Port Hope Project remediation program, it is necessary to move and/or remove any structures [such as, but not limited to, fences, pools, sheds, decks, detached garages] such structures may be replaced on the same property notwithstanding the fact that the placement/replacement of such structures may not conform with the permitted yard, setback, maximum height, maximum floor area, or maximum number of accessory structures requirements of the applicable Municipal Zoning By-law provided that the structure is:
 - (a) the identical structure that existed prior to the commencement of the Port Hope Project remediation program on the subject property **or alternatively** is a replacement structure that is the same [or smaller] in size, dimensions, mass and height, so as to be more in conformity with the applicable Municipal Zoning By-law than to the structure that it replaces; **and**
 - (b) placed in the identical location as the structure existed prior to the commencement of the Port Hope Project remediation program or is placed in a location that is more in conformity with the setback requirements of the applicable Municipal Zoning Bylaw than the structure that existed prior to the commencement of the Port Hope Project remediation program.
3. Provided that the placement or replacement of the structure satisfies all of the requirements of Paragraph 2 above, the Municipality shall not require the landowner or the Port Hope Project to seek approval from the Municipality for a Port Hope Project related Minor Variance pursuant to Section 45 of the *Planning Act* as amended from time to time.

4. This policy only relates to “exemptions” (in the limited circumstances described above) from the minor variance requirements pursuant to Section 45 of the *Planning Act* as amended from time to time. Nothing in the policy shall exempt any person from complying with all other applicable federal and provincial statutes, regulations and Municipal By-laws.
5. Nothing in this policy shall affect the existing rights of any person, or the Municipality, regarding health and/or safety matters or any illegal activity.
6. Nothing in this policy shall be deemed to legitimize the use or location of any structure that does not comply with any applicable federal or provincial statute, regulation and/or Municipal By-law.
7. This policy shall be administered by Municipal Staff for the Port Hope Project or as otherwise delegated by the Chief Administrative Officer for the Municipality.