



Conditional Permit Guideline

A Conditional Permit is a special permission issued where a building permit is delayed due to extended timelines of the final stages of Planning and other approval processes. It is issued at the discretion of the Chief Building Official (CBO), when the applicant can show that these approvals are routine and forthcoming, and that the approval timeframes are unreasonable and causing unnecessary construction delays.

A Conditional Permit application is **NOT** a fast track to circumvent planning approvals or the time necessary for normal Ontario Building Code (OBC) technical reviews to assure public health and safety standards are being met. This guide applies to multi residential buildings over 3 stories in building height as well as commercial, industrial and institutional uses under Part 3 of the OBC.

This Guide is intended as a reference document to assist you in submitting a Conditional Permit Application. It is an offence to construct a building prior to obtaining a Building Permit. If you have any questions about the Conditional Permit Application process, please contact the building department at 613-546-4291 extension 3260.

Application Submission Checklist

A Conditional Permit may be considered if the following criteria is met:

1. Completed [Application for Conditional Permit](#). Permit applications can be emailed to buildingpermits@cityofkingston.ca or submitted in person to the Planning, Building and Licensing Department at 1211 John Counter Boulevard.
2. Site Plans have been endorsed by the Director of Planning, Building and Licensing where site plan approval applies to the development
3. Building permit documents are complete and a permit application has been submitted in advance of the Conditional Permit request
4. Zoning compliance including completion of rezoning and removal of any hold provisions
5. Subdivision registration has been complete where applicable
6. Approvals under the Ontario Heritage Act including,
 - a. subsection 27 (3),
 - b. subsection 30 (2) with respect to a consent of the council of a municipality to the alteration or demolition of a building where the council of the municipality has given a notice of intent to designate the building under subsection 29 (3) of that Act,
 - c. section 33 with respect to the consent of the council of a municipality for the alteration of property,
 - d. section 34 with respect to the consent of the council of a municipality for the demolition of a building,
 - e. section 34.5 with respect to the consent of the Minister to the alteration or demolition of a designated building,

- f. subsection 34.7 (2) with respect to a consent of the Minister to the alteration or demolition of a building where the Minister has given a notice of intent to designate the building under section 34.6 of that Act,
 - g. by-laws made under section 40.1,
 - h. section 42 with respect to the permit given by the council of a municipality for the erection, alteration or demolition of a building.
- 7. clause 28 (1) (c) of the Conservation Authorities Act with respect to permission of the authority for the construction of a building or structure if, in the opinion of the authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development,
- 8. Section 5 of the Environmental Assessment Act with respect to the approval of the Minister or the Environmental Review Tribunal to proceed with an undertaking, (see Record of site condition policy).
- 9. Where a minor variance is required,
 - a. a committee of adjustment has made a decision under section 45 of the Planning Act authorizing one or more minor variances from the provisions of any by-laws made under sections 34 and 38 of that Act,
 - b. such minor variance or variances result in the achievement of full compliance with such by-laws, and
 - c. no person informed the committee of adjustment of objections to the minor variances either in writing or in person at the hearing of the application.
- 10. All other necessary applicable law approval applications have been filed by the owner, and approvals are forthcoming.
- 11. Encroachment permit has been obtained where shoring or other construction is proposed outside the property line.
- 12. Health Unit approvals where applicable
- 13. Full building permit fees including an additional 10% Conditional Permit fee (minimum \$300) is payable at application. Water meter fees, impost and development charges are payable at Conditional Permit issuance.
- 14. A copy of the deed to the land confirming current ownership

Reasons for Refusal

The CBO may refuse a Conditional Permit application for any reason and is prohibited by Ontario law from issuing a Conditional Permit if re-zoning, heritage, conservation authority or environmental approvals are not completed. Other refusal decisions may include an objection from another approval agency, where applications have only been very recently filed, or the owner has not filed all required documentation. The CBO's decision on whether or not to issue a Conditional Permit is final and there is no appeal available on Conditional Permit decisions.

Refusal of a Conditional Permit could include the following circumstances:

1. The Conditional Permit application is not completed with all required information,
2. Construction has illegally commenced,
3. Conditions set out in a previous Conditional Permit were not complied with,
4. Compliance with applicable law has not been achieved in respect of the proposed building or construction,

5. Unreasonable delays in the construction are not a concern,
6. The applicant (and such other person as the CBO determines) has not entered into an agreement with the municipality on terms set out in the BCA and by the CBO, and
7. There are potential difficulties with restoring the site to its original state and use if required approvals are not obtained

Registration

An agreement between the City, the applicant and such other person as the CBO determines is required, and may be registered on title at the owner's expense.

The municipality, upper-tier municipality, board of health, planning board, conservation authority or the Province of Ontario, as the case may be, is entitled to enforce its provisions against the registered owner and, subject to the Registry Act and the Land Titles Act, any person acquiring any interest in the land subsequent to the registration of the agreement.

Enforcement of agreement

1. A Conditional Permit allows an owner to lawfully start construction entirely at his or her own risk in some limited circumstances, however, does not afford the same guarantees as a regular building permit. If outstanding approvals are not obtained within times that are prescribed in the agreement, the Conditional Permit may be revoked and the construction must be removed and the site restored at the owner's expense.
2. Where the CBO determines that a building has not been removed or a site restored as required by the agreement, the CBO may cause the building to be removed and the site restored and for this purpose the CBO, an inspector and their agents may enter upon the land and into the building governed by the agreement at any reasonable time without a warrant.
3. The municipality shall have a lien on the land for the amount spent on the removal of the building and restoration of the site, and the amount shall have priority lien status as described in section 1 of the Municipal Act.

Timeframe

There are no legislated timeframes in which a Conditional Permit may be reviewed, issued or denied.