



# Portugal Cove St. Philip's

## POLICY AND PROCEDURE

**POLICY:** UNAUTHORIZED DEVELOPMENT POLICY

**RELEVANT TO:** PLANNING AND DEVELOPMENT DEPARTMENT

**ISSUED BY:** TOWN OF PORTUGAL COVE-ST. PHILIP'S

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**1.0 TITLE:**

This document shall be known and cited as the *Unauthorized Development Policy*.

**2.0 INTERPRETATION:**

- 2.1** *"Urban and Rural Planning Act"* means the Urban and Rural Planning Act, 2000, SNL 2000, c. U-8, as amended.
- 2.2** *"Municipal Plan"* means the Town of Portugal Cove-St. Philip's Municipal Plan, as amended.
- 2.3** *"Development Regulations"* means the Town of Portugal Cove-St. Philip's Development Regulations, as amended.
- 2.4** *"Municipalities Act"* means the Municipalities Act, 1999, SNL 1999 c. M-24, as amended.
- 2.5** *"Council"* means the duly elected Council of the Town of Portugal Cove-St. Philip's.
- 2.6** *"Town"* means the Town of the Town of Portugal Cove-St. Philip's as incorporated under the Municipalities Act.
- 2.7** *"Unauthorized Development"* means:
- i. Development activity, in accordance with the Urban and Rural Planning Act, Municipal Plan, Development Regulations, the Town of Portugal Cove-St. Philip's Beehive Regulations, 2019, and/or the Town's Fence Regulations, undertaken within the Town for which a permit has not been issued by the Town; or in which the

- development activity has exceeded the details and/or conditions specified on the permit or in the development regulations; and/or,
- ii. Noise generated in relation to development in contravention of the PCSP Noise Regulations.

2.8 *“Committee”* means the Planning & Development Committee of Council.

2.9 *“Management”* means the Chief Administrative Officer and/or the Director of Planning & Development.

### 3.0 POLICY STATEMENT:

The purpose of this policy is to provide guidance for managing the resolution of Unauthorized Development identified within the Town.

### 4.0 APPLICATION:

This policy shall apply to Staff, Council, and the Public regarding resolution of Unauthorized Development.

### 5.0 POLICY PROCEDURE:

5.1 An Unauthorized Development may be identified by Staff or reported by a member of Council or the Public.

5.2 Once identified, the Unauthorized Development will be assigned an initial criticality level, as follows, with updates as additional information becomes available:

#### Criticality 1 – Very Low

- Unauthorized Activity that has minor potential to cause public interest concerns.
- Unresolved Unauthorized Development which Council has advised Staff that no further action is required.

#### Criticality 2 – Low

- Unauthorized Development identified by Staff that has potential for public interest concerns.

#### Criticality 3 – Medium

- Unauthorized Activity that has been reported by the Public.

#### Criticality 4 – High

- Unauthorized Activity that has been identified by Council and/or Management as being of moderate public interest concerns.

#### Criticality 5 – Very High

- Safety, environmental, etc. implications are present and require immediate attention as identified by Council and/or Management.

5.3 Staff will contact the property owner to discuss the Unauthorized Development and schedule a site visit, if required. Property owners will be

advised to stop work until a permit is issued. If Staff is unable to contact the property owner, the matter will be referred to Management for direction on how to proceed.

- 5.4 If an Unauthorized Development can comply with the Town's Municipal Plan and Development Regulations by obtaining a permit, Staff will work with the property owner to resolve the matter, issue a permit, and apply any warnings and/or fees in accordance with the Town's Tax Structure and Schedule of Fees current at the time of permit issuance.
- 5.5 With respect noise, if the property owner acknowledges the PCSP Noise Regulations and commits to abiding by them, the matter will be recorded as resolved.
- 5.6 If the Unauthorized Development is determined non-compliant with the Town's Municipal Plan and Development Regulations or PCSP Noise Regulations, Staff will advise the property owner of such, and that work must stop and/or be reinstated accordingly. The property owner will be asked to provide a corrective action plan in writing providing details as to when any corrective action can be completed.
- 5.7 All non-compliant Unauthorized Development will be added to the next Committee agenda for direction on how to proceed.
  - i. If a property owner proposes a corrective action plan that can be completed within 30 calendar days or less, the item will be added for discussion/information.
  - ii. Where no corrective action plan is provided, or a corrective action plan requires more than 30 days to be completed, the Committee may discuss Council possibly issuing an Order in accordance with the *Municipalities Act* and *Urban and Rural Planning Act*.

Prior to the Committee having this discussion, correspondence will be forwarded to the property owner advising that the item will be added to the Committee's agenda for discussion and offering them the ability to provide additional information/representations that Council may wish to consider prior to deciding on the matter.

An Order will generally grant 30 days for a property owner to rectify an issue; however, consideration may be given, at Council's discretion, to expedite compliance where public interest concerns exist, or consideration may be given, at Council's discretion, to allow a longer time based on details provided in the corrective action plan.

- 5.8 After the Order deadline has passed, Staff will contact the property owner to discuss the status of compliance and schedule a site visit, if required. The Order will be added to the next Committee agenda for discussion to determine if the conditions of the Order have been satisfied.

- i. If the Committee determines that the Order has been satisfied by the Property Owner, a recommendation will be made to Council to issue correspondence to the property owner advising of the same, and of any applicable fee(s) required in accordance with the Town's Tax Structure and Schedule of Fees current at that time so that the Order may be revoked by Council.
- ii. If the Committee determines that the Order has not been satisfied, the Committee may make a recommendation that Council engage the Town's Solicitor for further actions which may be undertaken as authorized by the *Municipalities Act* and/or the *Urban and Rural Planning Act*.

5.9 If work required to carry out an Order is completed by the Town, the Order may be revoked by Council upon payment of any debt owing and any other applicable fees.

5.10 If at any point the property owner resolves the Unauthorized Development prior to an Order being issued, the matter will be recorded as resolved. If an Order had been issued, the matter will be added to the next Committee agenda for discussion.

**6.0 REPEALS:**

This policy rescinds all previous policies on this subject matter.

**7.0 AMENDMENTS:**

None.

**8.0 RESOLUTION:**

8.1 Pursuant to the authority vested in the Town Council of Portugal Cove- St. Philip's, Council has adopted by Resolution the above referenced Policy on the 3 day of October, 2023.

8.2 Resolution # 2023-273

8.3 Effective Date: 3 day of October, 2023.

  
Carol McDonald, Mayor

  
Claudine Murray, Town Clerk