

Building By-Law

THE CORPORATION OF THE TOWNSHIP OF BLACK RIVER-MATHESON

BY-LAW NO. 19-2006

BEING A BY-LAW respecting permits for construction, demolition, change of use and conditional permits, sewage systems, inspections and the charging of permit fees within the Township of Black River-Matheson.

WHERE AS the Municipal Act, S.O. 2001, c. 25, Section 130 as amended provides that a municipality may regulate matters not specifically provided for by the Municipal Act or any other Act for purposes related to health, safety and well-being of the inhabitants of the Municipality.

AND WHERE AS section 7 of the Building Code Act, S.O. 1992, c.23 as amended, empowers Council to pass by-laws respecting all classes of permits under the Act, requiring the payment of permit fees, inspections.

AND WHERE AS section 35 of the Building Code Act, S.O. 1992, c.23 as amended, provides that the Building Code Act and the Building Code supersede all municipal by-laws respecting the construction and demolition of buildings.

AND WHERE AS section 3.-(1) of the Building Code Act, S.O. 1992, c.23 as amended, provides that the council of each municipality is responsible for the enforcement of the Building Code Act in the municipality.

AND WHERE AS section 3.-(2) of the Building Code Act, S.O. 1992, c.23 as amended, provides that the council of each municipality shall appoint a chief building official and such inspectors as are necessary for the enforcement of the Building Code Act in the areas in which the municipality has jurisdiction.

NOW THEREFORE the Council of the Corporation of the Township of Black River-Matheson enacts as follows:

1. TITLE

This by-law may be referred to as the "Building By-Law".

2. DEFINITIONS

- ACT means the Building Code Act, S.O. 1992, Chapter 23 as amended.
- AS CONSTRUCTED PLANS means as constructed plans as defined in the Building Code.
- ARCHITECT means a holder of a license, a certificate of practice, or a temporary license under the Architect's Act as defined in the Building Code.
- BUILDING means a building as defined in Section 1.-(1) of the Act.
- BUILDING CODE means the regulations made under Section 34 of the Act.
- CHIEF BUILDING OFFICIAL means the Chief Building Official appointed the Corporation of the Township of Black River-Matheson for the purposes of enforcement of the Act, Building Code and this by-law.
- CONSTRUCT means construct as defined in Section 1.-(1) of the Act.
- CONTRACTOR means the person/business who is conducting work under contract/agreement to a structure/building.
- DEMOLISH means demolish as defined in Section 1.-(1) of the Act.
- DESIGNER means the person responsible for the design.
- ENGINEER means a person who holds a license or a temporary license under the Professional Engineer's Act, as defined in the building code.
- FARM BUILDING means a farm building as defined in section 1.1.3.2 of the Building Code.
- INSPECTOR means an inspector appointed by by-law of the Corporation of the Township of Black River-Matheson for the purpose of enforcing the Act.
- MINISTRY means the Ministry of Municipal Affairs and Housing.
- MUNICIPALITY means the Township of Black River-Matheson.
- OCCUPANCY means the use or intended use of a building or part thereof for the shelter or support of persons, animals or property.
- OWNER means the registered owner of the property and includes a lessee, mortgagee in possession, and the authorized agent in lawful control of the property.

- PERMIT means written permission or written authorization from the chief building official to perform work regulated by this by-law, the Act and the Building Code or to change the use of a building or part of a building or parts thereof, or to occupy a building or part thereof as regulated by the Act and Building Code.
- PLUMBING SYSTEM means a plumbing system as defined in Section 1.-(1) of the Act.
- PRINCIPAL AUTHORITY means a principal authority a defined in Section 1.-(1) of the Act.
- PROVINCIAL APPLICATION FORMS are the forms established and approved by the Ministry of Municipal Affairs and Housing.
- SEWAGE SYSTEM means a sewage system as defined in Section 1.-(1) of the Act.
- Terms not defined in this by-law shall have the meaning ascribed to them in the Act or the Building Code.

3. CLASSES OF PERMITS

Classes of permits with respect to the construction, demolition and change of use of buildings, and permit fees shall be as set out in Schedule “A” of this by-law.

No person shall construct, demolish, renovate or change the use or cause the construction, demolition, or change of use of a building without first obtaining a permit.

4. APPLICATION FOR PERMIT

4.1 To obtain a permit, the owner or an agent authorized in writing by the owner shall file an application in writing by completing the provincial application form (form C-1), as set out in Schedule “C”, which are available at the office of the municipality, from the Chief Building Official or from the Building Code website www.obc.mah.gov.on.ca.

4.2 Every application for a permit shall, in addition to meeting all other application requirements set out in this by-law, the Building Code and Act shall:

- i. Identify and describe in detail the work, use and occupancy to be covered by the permit for which the application is made.
- ii. Include the legal description, the municipal address and where appropriate, the 9-11

number of the land on which the work is to be done.

iii. Be accompanied by plans, specifications, documents and other information as described in this by-law for the work to be covered by the permit.

iv. State the estimated value of the proposed work including materials, labour and related direct costs associated with the work exclusive of land.

v. State the names, addresses and telephone numbers of the owner, applicant, architect, engineer or other designer, and the contractor or person hired to carry out the construction or demolition as the case may be.

vi. Be accompanied by the fees calculated in accordance with Schedule "A" of this by-law.

vii. Be signed by the applicant who shall certify as to the truth of the contents of the application.

4.3 The permit, once issued, shall be prominently displayed on the site of the work for which the permit was issued. Work at the site shall not be performed until the permit has been so displayed.

4.4 Where an application for a permit remains incomplete or inactive for a period of one (1) year 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 who may be entitled to a partial refund of fees as set out in Schedule "B". If an application is deemed to be abandoned, a new application must be filed for the proposed work.

5. CONSTRUCTION PERMITS

Where application is made for a construction permit under Section 8.-(1) of the Act, the application shall;

i. Contain the information required in Section 4.

ii. Include the proposed or existing occupancy of all parts of the building.

6. DEMOLITION PERMITS

Where application is made for a demolition permit under Section 8.-(1) of the Act, the application shall;

- i. Contain the information required in Section 4,
- ii. Be accompanied by satisfactory proof that arrangements have been made with the proper authorities for the disconnection of all utilities (water, sewer, gas, telephone, electric) serving the building.

7. CONDITIONAL PERMITS

Where application is made for a conditional permit under Section 8.-(3) of the Act, the application shall;

- i. Contain the information required by Section 4 of this by-law,
- ii. Contain such other information, plans and specifications concerning the complete project as the Chief Building Official may require,
- iii. State the reasons why the applicant believes that unreasonable delays in construction would occur if a conditional permit is not granted,
- iv. State the necessary approvals which must be obtained in respect of the proposed building and the time in which such approvals will be obtained and,
- v. State the time in which plans and specifications of the complete building will be filed with the Chief Building Official.

8. CHANGE OF USE PERMITS

Even though no construction is proposed, no person shall change the use of a building or permit the change of use of a building or part of it which would result in an increase in hazard as determined by the OBC unless a permit has been issued by the Chief Building Official.

Where application is made for a change of use permit under Section 10.-(1) of the Act, the application shall be submitted to the Chief Building Official, and shall;

- i. Use the change of use application form (form C-2) as set out in Schedule "C" of this by-law, with all applicable fields completed.

ii. Describe the building in which the occupancy is to be changed, by a description that will readily identify and locate the building.

iii. Identify and describe in detail the current and proposed occupancies of the building or part of a building for which the application is made.

iv. Include plans and specifications which show 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 local bearing capabilities.

v. Be accompanied by the required fee as set out in Schedule "A".

vi. State the name, address and telephone number of the owner.

vii. Be signed by the owner or his/her authorized agent who shall certify the truth of the contents of the application.

9. SEWAGE SYSTEMS

Where permits and fees are required for the installation, renovation, demolition or inspection of any class of sewage system, the owner shall obtain such permits from the Porcupine Health Unit.

10. PLUMBING SYSTEM

Where application is made for a plumbing permit under Section 8.-(1) of the Act, the application shall:

i. Contain the information required by Section 4 of this by-law.

ii. Include the information contained in form C-9 as set out in Schedule "C" of this by-law.

11. TRANSFER OF PERMITS Where application is made for a transfer of permit under subsection 7(h) of the Act, the new applicant shall complete a permit application form in accordance with Section 4 of this by-law.

12. PARTIAL PERMIT 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, application shall;

- i. Be made and all applicable fees paid for the complete project.
- ii. Complete plans and specifications covering the portion of the work for which immediate approval is desired shall be filed with the Chief Building Official.
- iii. 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.
- iv. Partial permits are appropriate where the construction authorized by the permit complies with the Act, Building Code and any other applicable law.

13. REVISION TO PERMIT

Under Section 8.-(12) of the Act, 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. Notifications of such changes and applications for revisions to issued permits shall be submitted in writing to the Chief Building Official.

14. FARM BUILDINGS

Farm buildings shall conform to the requirements set out in the Act, the Building Code and this by-law. Where an application for a permit is made for farm buildings, the application shall;

- i. Contain the information required in section 4, and
- ii. Contain the information required in Section 5, if applicable, or,
- iii. Contain the information required in Section 6, if applicable, or,
- iv. Contain any other information as set out in any other part of this by-law, where applicable.

15. EQUIVALENTS

Where an application for a permit or for authorization to make a material change to a plan, specification, document or other information on the basis of which a permit was issued, proposes the use of a material, system or building design not authorized by the Building Code, the Chief Building Official may allow such use under Section 9 of the Act. Using form C-8 of Schedule “C”, the following information shall be provided:

- i. A description of the proposed material, system or building design for which authorization under section 9 of the Act is requested.
- ii. Any applicable provisions of the Building Code.
- iii. Evidence that the proposed material, system or building design will provide the level of performance required by the Building Code, and
- iv. Include the required fees as set out in Schedule “A” of this by-law.

16. PLANS AND SPECIFICATIONS

16.1 Sufficient information shall be submitted with each application for a permit to enable the Chief Building Official to determine whether the proposed work conforms to the Act, Building Code and any other applicable law.

16.2 Each application shall, unless otherwise specified by the Chief Building Official, be accompanied by two complete sets of plans and specifications required under this by-law.

16.3 Plans shall be drawn on paper or other durable material, shall be legible and whenever possible drawn to scale and without limiting the generality of the foregoing, shall include working drawings as set out in Schedule “D” of this by-law, unless otherwise specified by the Chief Building Official.

16.4 Site plans submitted shall be referenced to a current plan of survey certified by a registered Ontario Land Surveyor and a copy of such a survey shall be filed with and retained by the municipality unless this requirement is waived because the Chief Building Official is able, without having a current plan of survey, to determine whether the proposed work conforms to the Act, Building Code, and any other applicable law. Site plans shall show:

- i. Lot size and the dimensions of property lines and setbacks to any existing or proposed buildings.
- ii. Existing and finished ground levels or grades.

iii. Existing rights-of-way, easements and municipal services, and

iv. Proposed fire access routes and existing fire hydrant locations.

16.5 On completion of the construction of a building, the Chief Building Official may require a set of as constructed plans, including a plan of survey showing the location of the building.

16.6 Plans and specifications furnished according to this by-law or otherwise required by the Act become the property of the municipality and will be disposed of or retained in accordance with relevant legislation.

16.7 No person shall construct, demolish or alter or repair a building or structure in a manner contrary to approved plans.

17. FEES AND REFUNDS

17.1 Fees for a required permit shall be as set out in Schedule "A" to this by-law and are due and payable upon submission of an application for a permit.

17.2 Where the fees payable in respect of an application for a construction or demolition permit under Section 8.-(1) of the Act or a conditional permit under Section 8.-(3) of the Act are based on the cost of valuation of the proposed work, the cost of valuation of the proposed work shall mean the total cost of all work regulated by the permit, including the costs of all material, labour, equipment, overhead and professional and related services, provided that where application is made for a conditional permit, fees shall be paid for the complete project.

17.3 The Chief Building Official may place a valuation on the cost of the proposed work for the purposes of establishing the permit fee, and where disputed, the applicant shall pay the required fee under protest and, within six (6) months of completion of the project, shall submit an audited statement of the actual costs and where the audited costs are determined to be less than the valuation, the Chief Building Official shall issue a refund.

17.4 In the case of refusal or revocation of a permit, withdrawal of an application or the abandonment of all or a portion of the work 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, in accordance with Schedule "B" of this by-law.

17.5 All permits issued under the authority of the by-law shall be given free of charge for any Municipal building or demolition project under the jurisdiction of the Council. All other requirements of the by-law shall apply to any permit so issued.

18. REVOCATION OF PERMITS

18.1 Prior to revoking a permit under Section 8.-(10) of the Act, the Chief Building Official shall serve a written notice, either by personal service or registered mail, to the permit holder at the last known address and, if on the expiration of thirty (30) days from the date of such notice, the Chief Building Official may revoke the permit if grounds to revoke still exists, without any further notice.

18.2 A permit holder may within thirty (30) days from the date of service, request in writing, the Chief Building Official to defer the revocation of such permit by stating the reasons why the permit should not be revoked and the date by which the work will be commenced or resumed.

18.3 Having considered the circumstances of the request and having determined that there have been no changes to the Act, Building Code and any other applicable law, the Chief Building Official may allow the deferral, and shall notify the permit holder in writing.

19. NOTICE REQUIREMENTS AND INSPECTIONS

19.1 The person to whom the permit has been issued under section 8 of the Act shall give notice to the Chief Building Official of the readiness for inspection at the various stages of construction as outlined in Article 2.4.5.1 of the Building Code and further listed in Schedule "E" to this by-law.

19.2 After the mandatory inspection notice has been received under Article 2.4.5.1 of the Building Code, an inspector shall undertake a site inspection within the time frames prescribed in Article 2.4.5.3 of the Building Code. The time frames being;

- i. In the case of sewage systems, five (5) business days after the receipt of notice and,
- ii. Two (2) business days after the receipt of notice in all other cases.

19.3 In addition to the mandatory inspection notices prescribed in Article 2.4.5.1, the person to whom the permit was issued under Section 8 of the Act shall provide the Chief Building Official with "additional notices" as set out in Article 2.4.5.2 of the Building Code by notifying the Chief Building Official or an inspector at least two (2)

business days prior to each stage of construction listed in Article 2.4.5.2 of the Building Code and Schedule “E” to this by-law.

19.4 A notice pursuant to this section, (19), is not effective until written or oral notice is actually received by the Chief Building Official.

20. PRESCRIBING FORMS

20.1 The forms prescribed for use by the Chief Building Official as applications for permits, for orders as approved by the Ministry, and for inspection reports shall be set out in Schedule “C” to this by-law.

20.2 Every person for whom a permit was issued shall comply with any order, as set out in Schedule “C”, issued by the Chief Building Official. Such orders are outlined as follows:

- i. Order not to cover or enclose
- ii. Order to uncover
- iii. Stop work order
- iv. Order to comply
- v. Order requiring tests and samples.

21. FENCING OF EXCAVATION

21.1 Every person shall erect and maintain a fence to enclose the construction or demolition site. The prescribe the height and description of such fences shall be constructed as constructed as follows:

- i. The height of the fence shall be a minimum of four (4) feet (1.22 meters) and a maximum of six (6) feet (1.8 meters).
- ii. Every fence required under this by-law shall be of any material (chain link, wood, snow fence) which will be supported by the appropriate posts which are embedded in the ground to provide ridged support.
- iii. No fence shall be constructed or consist of new or used tires, barbed wire or equivalent materials or an electric fence.

iv. The fence may provide for openings sufficient to accommodate construction vehicles, machines and any other equipment providing services to the construction site, provided these openings are closed and secured when the site is shut down.

v. The fence shall remain in place until all construction related hazards have been removed from the site.

vi. The Chief Building Official shall determine if a fence is necessary based on the work described in the permit application.

22. CERTIFICATE OF COMPLIANCE

A certificate of compliance as per Schedule "G" shall be issued by the Chief Building Official upon final inspection, providing all work done pursuant to the permit complies with the Act, Building Code and this by-law.

23. CODE OF CONDUCT

The Township of Black River-Matheson maintains this code of conduct in accordance with the provisions of the Building Code Act. Building Officials undertake building certification functions that ensure the quality, structural integrity and safety of buildings. Building Officials are exposed to potential conflicts of interest because of the special powers conferred on them. The conduct and behaviour of the Township of Black River-Matheson Building Officials reflects the Building Department's commitment to the highest competence, skill, honesty, fairness and independence. The Code of Conduct is outlined in Schedule "H" of this by-law.

24. OFFENCES

Section 36 of the Act provides that a person is guilty of an offence under the Act if a person contravenes the Act, Building Code or this by-law. Proceeds of fines as per section 36.-(9) and Schedule "F" shall be paid to the treasurer of the municipality. A person who is convicted of an offence is liable to a fine of not more than \$50,000.00. If a corporation is convicted of an offence, the maximum penalty imposed is \$100,000.00.

25. VALIDITY

If any section, clause or provision of this by-law, including anything contained in any schedule attached hereto, is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the by-law as a whole

or any part thereof, other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention that all remaining sections, clauses or provisions of this by-law shall remaining full force and effect until repealed, not withstanding that one or more provisions thereof shall have to be declared invalid.

That by-law numbers 283-77, 989-90, 1144-94, 1173-95, 2014-96, 05-2006 and any other by-laws pertaining to the building by-law are hereby repealed.

This by-law shall come into force and take effect on the date of the final passing thereof.

Read a first and second time on this ____day of _____, 200 .

Read a third time and finally passed on this ____day of _____, 200 .

MAYOR

CLERK