

The Building By-law

BY-LAW NO. 7917-2005

(Adopted September 19, 2005)

AMENDED BY BY-LAW: No Amendments

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Town of Smiths Falls

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THE CORPORATION OF THE TOWN OF SMITHS FALLS

BY-LAW NO. 7917-2005

A By-Law Respecting Building Permits and Inspections (Construction, Demolition And Change Of Use Permits)

WHEREAS Section 7 of the Building Code Act, 1992, S.O. 1992, Chapter 23, provides that a municipality may pass by-laws applicable in the area in which the municipality has jurisdiction for the enforcement of this Act, including by-laws respecting construction, demolition and change of use permits, fees and inspections;

AND WHEREAS Building Code Act amendments require the Town to update its current building by-law;

NOW THEREFORE the Council of the Corporation of the Town of Smiths Falls enacts as follows:

Section 1.0 SHORT TITLE

1.1 This by-law may be cited as "The Building By-law".

Section 2.0 DEFINITIONS

For the purpose of this by-law the following definitions shall apply:

- 2.1 "Act" means the Building Code Act, 1992, S.O. 1992, Chapter 23 as amended.
- 2.2 "Applicant" means the owner of a property who applies for a permit or any person authorized by the owner to apply for a permit on the owner's behalf. Authorization by an owner shall be in the form prescribed by Schedule B to this by-law. Where there is multiple ownership authorization must be provided by the owner(s) who is (are) not the applicant.
- 2.3 "as constructed plans" means as constructed plans as defined in the Building Code.
- 2.4 "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.
- 2.5 "Building" means a building as defined in Section 1(1) of the Act.
- 2.6 "Building Code" means the regulations made under Section 34 of the Act.
- 2.7 "Chief Building Official" means the chief building official appointed by the Corporation of the Town of Smiths Falls for the purposes of enforcement of the Act.
- 2.8 "Corporation" means the Corporation of the Town of Smiths Falls.
- 2.9 "farm building" means a farm building as defined in the building code.
- 2.10 "owner" means the registered owner of the land.
- 2.11 "permit" means written permission or written authorization from the chief building official to perform work regulated by this by-law and the Act, or to change the use of a building or part of a building or parts thereof as regulated by the Act.

- 2.12 "plumbing" means plumbing as defined in Section 1(1) of the Act.
- 2.13 "professional engineer" means a person who holds a license or a temporary license under the Professional Engineer's Act, as defined in the Building Code.
- 2.14 "sewage system" means a sewage system as defined in Section 1(1) of the Act."
- 2.15 Unless specifically modified or changed herein, words or expressions used in this by-law have the same meaning as given or used in the Building Code Act, 1992, S.O. 1992, Chapter 23 as amended.
- 2.16 Terms which may be used in the by-law and which are defined in the Building Code Act, 1992, S.O. 1992, Chapter 23, include: "change certificate"; "construct"; "demolish"; "director"; "final certificate"; "inspector"; "Minister"; "municipality"; "officer"; "planning board"; "plans review certificate"; "principal authority"; "registered code agency"; and "regulations".

Section 3.0 CLASSES OF PERMITS

- 3.1 No building, renovation, demolition or change in use shall be undertaken without a permit from the Town for the work being undertaken.
- 3.2 Classes of permits with respect to construction, demolition and change of use of building permits and permit fees shall be as set out in Schedule "A" to this By-law.

Section 4.0 APPLICATION FOR PERMIT

- 4.1 To obtain a permit for construction of a new building, demolition, alteration/repair to an existing building, or for a conditional/partial permit, the owner or an agent authorized in writing by the owner shall file an application in writing by completing a prescribed form available at the offices of the municipality or from the Building Code website www.ohc.mah.gov.on.ca. Forms prescribed by the municipality under clause 7(f) of the Act shall be set out in Schedule "B" to this By-law and shall be submitted as part of the application for permit.
- 4.2 Every application for permit shall be accompanied by the required fee, as detailed in Section 7 and Schedule "A" to this By-law.
- 4.3 Every application for a permit shall be submitted to the Chief Building Official, and contain the following information:
- (1) Where application is made for a construction, demolition or alteration/repair to an existing building under Subsection 8(1) the Act, the application shall:
- (a) use the provincial application form, "Application for a Permit to Construct Demolish";
 - (b) use the prescribed application forms set out in Schedule B to this by-law;
 - (c) include complete plans and specifications, documents and other information as required by Article 2.4.1.1B of the Building Code and as described in Section 5 of this by-law for the work to be covered by the permit.
- (2) Where application is made for a conditional permit under subsection 8(3) of the Act, the application shall:

- (a) use the provincial application form, "Application for a Permit to Construct or Demolish",
- (b) use the prescribed application forms set out in Schedule B to this by-law,
- (b) include complete plans and specifications, documents and other information as required by Sentence 2.4.1.1B of the Building Code and as described in Section 5 of this by-law for the work to be covered by the permit,
- (c) state the reasons why the applicant believes that unreasonable delays in construction would occur if a conditional permit is not granted; and
- (d) state the necessary approvals which must be obtained in respect of the proposed building and the time in which such approvals will be obtained;
- (e) state the time in which plans and specifications of the complete building will be filed with the Chief Building Official.

(3) Where application is made for a change of use permit issued under subsection 10(1) of the Act, the application shall:

- (a) use the prescribed application forms set out in Schedule B to this by-law
- (b) describe the building in which the occupancy is to be changed, by a description that will readily identify and locate the building,
- (c) identify and describe in detail the current and proposed occupancies of the building or part of a building for which the application is made,
- (d) include plans and specifications showing 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 load bearing capacities, details of the existing "sewage system", if any,
- (e) include all other information as required by Building Code and all information described in Section 5 of this by-law for the work to be covered by the permit,
- (f) state the name, address and telephone number of the owner,
- (g) be signed by the owner or his or her authorized agent who shall certify the truth of the contents of the application.

4.4 Revision to Permit

After the issuance of a permit under the Act, notice of any material change to a plan, specification, document or other information on the basis of which the permit was issued, must be given in writing to the Chief Building Official together with the details of such change which is not to be made without authorization of the Chief Building Official.

4.5 Transfer of Permits

Every application for a transfer of permit issued under clause 7(h) of the Act when land changes ownership shall be submitted in writing to the Chief Building Official, and shall:

- (a) use the prescribed application forms set out in Schedule B,
- (b) require a written assumption of responsibility by the new owner,
- (c) state the name, address and telephone number of the new owner,
- (d) be accompanied by the prescribed fee,
- (e) include all other information required by Building Code and described in Section 5 of this by-law.

Section 5.0 PLANS SPECIFICATIONS AND INFORMATION

- 5.1 Sufficient information shall be submitted with each application for a permit to enable the Chief Building Official to determine whether or not the proposed construction, demolition or change of use will conform to the Act, the Building Code and any other applicable law.
- 5.2 Unless otherwise specified by the Chief Building Official, each application shall be accompanied by all information and forms and two complete sets of the plans and specifications required under this by-law.
- 5.3 Plans shall be drawn to scale on paper, or other durable material, shall be legible and, without limiting the generality of the foregoing, shall include such working drawings as set out in Schedule "C" to this By-law unless otherwise specified by the Chief Building Official.
- 5.4 Unless otherwise permitted by the Chief Building Official site plans shall be referenced to an up-to-date survey and, when required to demonstrate compliance with the Act, the Building Code or other applicable law, a copy of the survey shall be submitted to the chief building official.
- 5.5 Site plans shall show:
- (1) Lot size and the dimensions of property lines and setbacks to any existing and proposed buildings; and
 - (2) existing and finished ground levels or grades, and
 - (3) existing rights-of-way, easements and municipal services (or well/waterline location and sewage system/tank/tilebed/line location where development is permitted on private services); and
 - (4) proposed fire access routes and existing fire hydrant locations.
- 5.6 Where development is on private services, health unit approval of the building permit application must be submitted with the application.

Section 6.0 EQUIVALENTS

- 6.1 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, contains an equivalent material, system or building design for which authorization under section 9 of the Act is requested, the following information shall be provided:
- (1) a description of the proposed material, system or building design for which authorization under section 9 of the Act is requested;
 - (2) any applicable provisions of the Building Code;
 - (3) evidence that the proposed material, system or building design will provide the level of performance required by the Building Code;
 - (4) required drawings and information prescribed under Schedule C and Section 5 of this by-law,
 - (5) the required fee.

- 6.2 Approved equivalents shall be recorded and logged in Schedule D to this By-law by the Chief Building Official. Schedule D shall be made available to the public for inspection. Further information respecting the approval shall only be released in accordance with the Municipal Freedom of Information and Protection of Privacy Act.

Section 7.0 FEES

- 7.1 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. Where needed the Chief Building Official after considering the submission will make final determination of the required fee and require appropriate additional payment prior to further processing/release of permit.

7.2 Where the fees payable in respect of an application for a construction or demolition permit issued under subsection 8(1) of the Act or a conditional permit under subsection 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 cost of all material, labour, equipment, overhead and professional and related services.

7.3 Where the fees payable in respect of an application for a construction or demolition permit issued under subsection 8(1) of the Act or a conditional permit issued under subsection 8(3) of the Act are based on a floor area, floor area shall mean the total floor space of all storeys above grade (or below grade for an underground home) measured as the horizontal area between the exterior walls of the building and the floor area of any habitable room in a basement.

7.4 Where fees payable in respect of an application for a change of use permit issued under subsection 10(1) of the Act are based on a floor area, floor area shall mean the total floor space of all storeys subject to the change of use.

7.5 The chief building official may place a valuation on the cost of the proposed work for the purposes of establishing the permit fee or calculate the fee based on floor area, and where disputed by the applicant, the applicant shall pay the required fee under protest and, within six 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.

7.6 In the case of withdrawal of an application or 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 A attached to and forming part of this by-law.

Section 8.0 CHANGES TO PERMIT FEES

8.1 Changes to fees shall be undertaken in accordance with article 2.23.1.2 of the Building Code. The Town shall hold at least one public meeting at which any person who attends has an opportunity to make representations with respect to the matter.

Notice of the public meeting shall include an estimate of the costs for administering and enforcing the Act, the amount of the fee or any change to the existing fee and the rationale for imposing or changing the fee.

8.2 Any person or organization wishing to receive notice of a public meeting respecting changes in building fees shall file a written request with the Clerk of the Municipality, providing their name and current mailing address.

8.3 Notice shall be provided by pre-paid first class mail not later than twenty-one (21) days prior to a public meeting respecting changes to fees to every person and organization that has, within five years before the day of the public meeting, requested that the Town provide the person or organization with such notice in accordance with Section 8.2 above.

Section 9.0 **INSPECTION REQUIREMENTS**

- 9.1 The owner or an authorized agent shall notify the building official at least two (2) business days prior to the need for an inspection for each stage of construction for which notice in advance is requirement under the Ontario Building Code.
- 9.2 After a mandatory inspection notice has been given under article 2.4.5.1, an inspector shall undertake a site inspection not later than two(2) days after the notice is given. In the case of site inspections of sewage systems, the Building Code (2.4.5.3.2) requires such inspections to be undertaken in five (5) days. (Note: The Town contracts with the Lanark, Leeds & Grenville District Health Unit for Sewage System Permits under Part 8 of the Building Code).
- The time periods exclude Saturdays, holidays and all other days when the offices of the principal authority are not open for the transaction of business with the public.

Section 10.0 **FENCES AROUND CONSTRUCTION SITES**

- 10.1 Fencing around construction sites shall be in accordance with all applicable provincial legislation and any fencing by-law of the Town.

Section 11.0 **PRESCRIBED FORMS**

- 11.1 The forms prescribed for use as applications for permits, to accompany applications for permits, for orders and for inspection reports shall be those authorized under the Building Code or otherwise as detailed in Schedule B to this by-law.
- 11.2 These forms and Schedule B may be updated from time to time by the Chief Building Official without requiring an amendment to this by-law.

Section 12.0 **AS CONSTRUCTED PLANS**

- 12.1 The Chief Building Official may require that a set of plans of a building or any class of buildings as constructed be filed with the chief building official on completion of construction under such conditions as may be prescribed in the Building Code.
- 12.2 For new construction of occupied structures (excluding additions), at the foundation stage of construction, the applicant may be required, at the discretion of the building official, to provide the Chief Building Official with a certificate survey of the property, prepared by a registered Ontario Land Surveyor, illustrating the limits of the lot and the location of the foundation of the building/structure which is to be occupied to ensure that the building location complies with applicable zoning setbacks. Where determined necessary by the Chief Building Official certificate surveys may be for other permits.

Section 13.0 **PERMIT REVOCATION, DEFERRAL OF REVOCATION**

- 13.1 Revocation of Permit

Subject to section 25 of the Act, the chief building official may revoke a permit issued under the Act and this by-law.

- (a) if it was issued on mistake, false or incorrect information;
- (b) if, after six months after its issuance, the construction or demolition in respect of which it was issued has not, in the opinion of the chief building official, been seriously commenced;
- (c) if the construction or demolition of the building is, in the opinion of the chief building official, substantially suspended or discontinued for a period of more than one year;
- (d) if it was issued in error;
- (e) if the permit holder requests in writing that it be revoked; or
- (f) if a term of the agreement under section 8(3)(c) of the Act has not been complied with.

13.2 Notice of Revocation of a Permit

- (a) Prior to revoking a permit under Clauses 8(10)(b) and (c) of the Act, the chief building official shall give written notice of intention to revoke to the permit holder at his or her last known address and if on the expiration of thirty (30) days from the date of such notice, the ground for revocation continues to exist, the permit may be revoked without further notice and all submitted plans and other information may be disposed of.

13.3 Deferral of Revocation

- (a) On receipt of a notice of intention to revoke a permit, a permit holder may request in writing, within thirty (30) days from the date thereof, the chief building official to defer the revocation of such permit;
- (b) A request for deferral shall set out the reasons why the permit should not be revoked and the date by which the work will be commenced or resumed;
- (c) Having considered the circumstances of the request and having determined that there have been no changes to the Act and the Building Code and any other applicable law which would have prevented the issuance of the original permit, the chief building official may allow a deferral to a prescribed date, and shall notify the permit holder;
- (d) A request for deferral of revocation is subject to a fee in accordance with Schedule A.

Section 14.0 **OFFENCES**

- 14.1 A person is guilty of an offence if the person:
- (a) knowingly furnishes false information in any application under the Act or in any statement or return required to be furnished under the Act or the regulations;
 - (b) fails to comply with an order, direction or other requirement made under the Act; or
 - (c) contravenes the Act or the regulations or a by-law passed under the Act.

- 14.2 Any person violating any of the provisions of this by-law is guilty of an offence and on conviction shall be liable to a penalty pursuant to the Provincial Offences Act and Section 36 of the Building Code Act.
- 14.3 Set fines may be established for certain offences contained in this by-law. Such set fines shall be established pursuant to the Provincial Offences Act and shall become effective upon the approval of same by the Chief Judge of the Provincial Offences Court.

Section 15.0 SEVERABILITY

- 15.1 Should any section, subsection, clause or provision of this By-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this By-law as a whole or any part thereof, other than the part so declared to be invalid.

Section 16.0 CODE OF CONDUCT

- 16.1 The Town's Building Officials shall be bound by the Code of Conduct as detailed in Schedule E.

Section 17.0 EFFECTIVE DATE

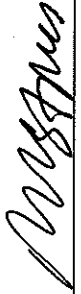
- 17.1 This By-law shall take full effect on the date of passing thereof.

Section 18.0 REPEAL

- 18.1 That By-law 4234-76 and By-law 7100 (amending by-law) are hereby repealed.

Read a First and Second time this 19th day of September, 2005.

Read a **Third** time and finally **Passed** this 19th day of September, 2005.


MAYOR


CLERK

**Schedule B to By-law 7917-2005, The Building By-law
Town of Smiths Falls**

FORMS PRESCRIBED BY THE MUNICIPALITY

- B.1 Application for Change Use Permit
- B.2 Application for Plumbing Permit
(To accompany all applications involving plumbing work)
- B.3 Application to Transfer a Building Permit
- B.4 Owners Authorization for Agent to Act as Applicant
(To accompany all applications submitted by any applicant who is not the owner of the property or who is only a part-owner of the property)
- B.5 Plot Plan Submission
- B.6 Change of Use Permit

**LIST OF PLANS AND INFORMATION TO ACCOMPANY APPLICATIONS
FOR PERMIT PRESCRIBED BY THE MUNICIPALITY**

- 1) Site Plan (two sets of plans)
- 2) Floor Plans (two sets)¹
- 3) Foundation Plans (two sets)¹
- 4) Framing Plans (two sets)¹
- 5) Roof Plans (two sets)¹
- 6) Reflected Ceiling Plans (two sets)¹
- 7) Sections and Details (two sets)¹
- 8) Building Elevations (two sets)¹
- 9) Electrical Drawings (two sets)¹
- 10) Heating, Ventilation and Air Conditioning Drawings (2 sets)¹
- 11) Plumbing Drawings (2 sets)¹
- 12) Fire Alarm and Sprinkler Plan (two sets)¹
- 13) Survey of the Property
- 14) Deed for the Property

Note 1: Plans identified as 2) to 12) inclusive are required to be prepared by a designer qualified under the Ontario Building Code Act unless exempted under the Act (2.17.4.1. (3) of the Building Code)

Note 2: The chief building official may specify that not all the above-mentioned plans and information are required to accompany an application for a permit. Information guidelines may be provided by the municipality to specify which plans are necessary for different types of construction.

Note 3: Any other plans as may be required may be requested by the chief building official.

**Schedule E to By-law 7917-2005, The Building By-law
Town of Smiths Falls**

CODE OF CONDUCT FOR BUILDING OFFICIALS

Preamble

The Building Code Act requires municipalities to establish and enforce a “Code of Conduct” for these officials. This Code of Conduct applies to the Chief Building Official and inspectors appointed by the Town under the Building Code Act in the exercise of a power or the performance of a duty under the Building Code Act or the Building Code.

Purpose

The purpose of this Code is to:

1. promote appropriate standards of behaviour
2. prevent practices which may constitute an abuse of power, including unethical or illegal practices
3. promote appropriate standards of honesty and integrity
4. provide for enforcement actions.

Standards of Conduct

In addition to any policy with respect to any code of ethics or conduct applying to municipal staff, including the appropriate sections of the Human Resources By-law, building officials undertake to:

1. Always act in the public interest, particularly with regard to safety of building works and structures.
2. Not to act where there may be or where there may reasonably appear to be a conflict between their duties to their employer, their profession, their peers and the public at large and their personal interests.
3. Apply all relevant building by-laws, codes and standards appropriately and without favour.
4. Perform their inspections and plan examination duties impartially and in accordance with the highest professional standards.
5. At all times abide by the highest moral and ethical standards and avoiding any conduct, which could bring or tend to bring Building Officials into disrepute.
6. Comply with the provisions of the Building Code Act, the Ontario Building Code and other Acts or Laws which regulate or govern Building Officials or their functions.
7. Not to act beyond their personal level of competence or outside their area of expertise.
8. Maintain current accreditation to act as an Ontario Building Official.
9. Maintain their knowledge and understanding of the best current building practises, the building laws, and Code relevant to their inspection and plan examination function.
10. Extend professional courtesy to all.

Breaches of the Code of Conduct

The Municipal administration will review any allegations brought forward that the Code of Conduct has been breached in accordance with the Towns Human Resources Policy. Allegations should be directed in confidence to the “Director of Utility/Environmental Services”. Where appropriate, the Director shall be responsible for recommending disciplinary action to Council. Disciplinary action arising from violations of this Code of Conduct is the responsibility of the Municipal employer and will be based on the severity and/or frequency of the violation in accordance with relevant employment standards. Complainants will not be entitled to be apprised of disciplinary action taken.

COPY

THE CORPORATION OF THE TOWN OF SMITHS FALLS

BY-LAW NO. 8175-2008

BY-LAW TO ADOPT SCHEDULE A AND SCHEDULE A-1 TO BY-LAW 7917-2005 BEING A
BY-LAW RESPECTING BUILDING PERMITS AND INSPECTIONS

WHEREAS Section 7 of the Building Code Act, 1992, S.O. 1992, Chapter 23, provides that a municipality may pass by-laws applicable in the area in which the municipality has jurisdiction for the enforcement of this Act, including by-laws respecting construction, demolition and change of use permits, fees and inspections;

AND WHEREAS Schedule A was adopted as part of By-law 7917-2005 however, Council deems it appropriate to amend and add additional information to this schedule.

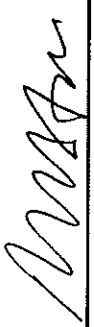
AND WHEREAS By-law 8133-2008 amended Schedule A to increase the fees for a required permit

NOW THEREFORE the Council of the Corporation of the Town of Smiths Falls enacts as follows:


1. That Schedule A to By-law 8133-2008 be replaced with the attached (all amendments made under By-law 8133-2008 have been maintained).
2. THAT Schedule A and A-1 as outlined in Schedule "A" form part of this By-law and By-law 7917-2005.
3. That the provisions of this by-law shall come into force and take effect upon the passing thereof.

Read a first and second time this 3rd day of November 2008

Read a third time and passed this 3rd day of November 2008



Mayor



Clerk