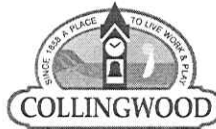


BY-LAW No. 2010-048
OF THE
CORPORATION OF THE TOWN OF COLLINGWOOD



BEING A BY-LAW AUTHORIZING ENTRY UPON ADJOINING LANDS FOR
THE PURPOSE OF MAKING REPAIRS OR ALTERATIONS TO EXISTING
BUILDINGS, FENCES OR OTHER STRUCTURES

WHEREAS section 132 of the *Municipal Act, 2001*, provides that “a local municipality may authorize the owner or occupant of land to enter adjoining land, at any reasonable time, for the purpose of making repairs or alterations to any building, fence or other structures on the land of the owner or occupant but, only to the extent necessary to carry out the repairs or alterations”;

AND WHEREAS under section 436 of the Act, the Town may pass by-laws providing that the Town may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a by-law passed under the Act, and a direction or order of the Town made under the Act or a by-law passed under the Act are being complied with; and

AND WHEREAS under section 446 of the Act, if the Town has authority by by-law or otherwise under an Act to direct or require a person to do a matter or thing, the Town may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person’s expense, and the Town may recover the costs of doing it by action, or the costs may be added to the tax roll and collected in the same manner as property taxes; and

AND WHEREAS under section 426 of the Act no person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this Act or under a by-law passed under this Act and any person who contravenes this provision is guilty of an offence; and

AND WHEREAS under section 391 of the Act, the Town may pass a by-law imposing fees or charges on persons for services and activities provided or done by or on behalf of it; and

NOW THEREFORE COUNCIL OF THE CORPORATION OF THE TOWN OF COLLINGWOOD ENACTS AS FOLLOWS:

DEFINITIONS

1. In this by-law,

“**building**” means any structure used or intended for supporting or sheltering any use or occupancy;

“**Town**” means the municipal corporation of the Town of Collingwood or the geographic area of the Town of Collingwood as the context requires;

“**Council**” means the Council of the Town of Collingwood;

“**Chief Building Official**” means the Chief Building Official or designate of the Town of Collingwood or authorized assistants;

“**land**” includes buildings;

“**permit**” means written permission or authorization to enter upon adjoining land;

“**owner**” when used in relation to the land where the work is to be done means the registered owner of the land or a person authorized in writing by the registered owner of the land to act on the owner’s behalf for the purposes of filing an application under this by-law; and

“reasonable notice” means written notice that is provided to the owner or occupant of adjoining land at least forty-eight hours in advance of the entry, and specifies the reason for the entry, and the day and time of the proposed entry.

INTERPRETATION

2. (1) In this by-law, a word interpreted in the singular number has a corresponding meaning when used in the plural.
- (2) It is declared that if any section, subsection or part or parts thereof be declared by any Court of Law to be bad, illegal or ultra vires, such section, subsection or part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

APPLICATION FOR A PERMIT

3. To obtain a permit, the owner of land shall file with the Chief Building Official an application for a permit in writing on the prescribed form.
 4. The application shall:
 - (a) identify and describe in detail the work to be covered by the permit for which an application is made;
 - (b) describe the land on which the work is to be done, by a description that will readily identify and locate the building lot as well as the adjoining premises;
 - (c) state the names, addresses and telephone numbers of the owner and the individual or contractor performing the work;
 - (d) state the address of the adjoining property upon which permission to enter is sought;
 - (e) be accompanied by the permit fee as prescribed by Section 6 or as otherwise prescribed under the fees and service charges by-law of the Town;
 - (f) be accompanied by the deposit in cash prescribed by Section 5, as deemed necessary by the Chief Building Official;
 - (g) be accompanied by the prescribed Certificate of Insurance;
 - (h) be accompanied by the prescribed Declaration of Responsibility; and
 - (i) where the applicant is not the owner, be accompanied by written authorization of the owner.
 5. (1) The Chief Building Official shall establish the amount of the deposit, as deemed necessary by the Chief Building Official, which, in his or her opinion, shall be sufficient to pay for the cost of restoring the adjoining land or adjacent building, fence or structure to the same condition it was prior to entry.
 - (2) The Town shall retain the deposit made under subsection (1), until the applicant has restored the adjoining land or adjacent building, fence or other structure to the satisfaction of the Chief Building Official.
 - (3) A permit issued under this by-law shall be valid for a period not exceeding two (2) weeks from the date of issue thereof; provided however, that the Chief Building Official may renew the permit for a further period of time not exceeding a combined period of two (2) months upon the payment of ten dollars (\$10.00) per renewal fee.
 - (4) If the applicant fails to do such restoration, repairs or alternation to the satisfaction of the Chief Building Official, then within thirty (30) days of providing written notice of such failure to the applicant, the deposit shall be forfeited and paid by the Town to the owner or authorized agent of the owner of the land entered.
6. The fee for a right-of-entry permit shall be Fifty Dollars (\$50.00), which is non-refundable.

CONDITIONS OF PERMIT ISSUANCE

7. (1) A right-of-entry permit shall be issued on the conditions that:
 - (a) the repairs or alterations to an existing building, fence or other structure are made only to the extent necessary to effect such repairs or alterations;
 - (b) the adjoining land is left in the same condition as it was in prior to such entry;

- (c) the entry is only for the days and hours of work specified in the permit;
- (d) the power of entry is only exercised by the owner or his or her employees or agents;
- (e) the person exercising the power of entry displays or produces proper identification on request; and,
- (f) the owner provides reasonable notice as prescribed by the Town of the proposed entry to the owner or authorized agent of the owner of the adjoining land.
 - (i) Acceptable "reasonable notice" means a copy of the permit issued under this by-law shall be served by the applicant upon the owner and occupant of the adjoining land to be entered, not later than seven (7) days preceding the date of entry. The said permit shall be sufficiently served upon the owner or occupant if left for him with an adult person appearing to be in charge of the premises, or in case no such adult person can be found at such address, then the permit shall be sufficiently served if forwarded by prepaid registered mail to the party to be served at the said premises. Provided, however, that where the owner and occupant are not one and the same person, and the owner cannot be located, then service upon the occupant alone shall be sufficient for the purposes of this by-law where the applicant furnishes the Chief Building Official with proof that he has made a reasonable attempt to serve the owner without success.
 - (ii) Notwithstanding the provisions of subsection (i) of this section, if the applicant has not been able to effect services in accordance with the said provisions of subsection (a) of this section, the applicant may effect such services upon the owner and occupant by forwarding the permit by prepaid registered mail, and the applicant shall furnish proof satisfactory to the Chief Building Official that he has made such services by prepaid registered mail.

(2) No permit holder shall fail to comply with the conditions set out in subsection (1).

- 8. No permit shall be issued under this by-law, unless the Chief Building Official has caused an inspection to be made of the fence, building or other structure to be repaired or altered, and of the land to be entered, and has been satisfied that entry upon the adjoining land is necessary for the purposes of making repairs or alterations.
- 9. If adjoining land is damaged by the entry or by anything done on the land as a result of the entry, the owner or occupant shall restore the land as close to its original condition in so far as is practicable, and shall provide compensation for any damage caused by the entry or anything done to the adjoining land.
- 10. No person entering upon adjoining land pursuant to a permit issued under this by-law shall fail to leave the land in the same condition as it was in prior to the entry and to provide compensation for any damage caused by the entry or anything done to the adjoining land.
- 11. No person shall fail to permit a right-of-entry permit holder to enter and repair or alter in accordance with the provisions of this permit.
- 12. No person shall fail to permit the Chief Building Official to enter upon the land for the purposes of carrying out an inspection to administer and enforce this by-law.

OFFENCES AND PENALTIES

- 13. Every person who contravenes any provision of this by-law is guilty of an offence, and if convicted of an offence under this by-law, is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, Chap. P.33, as amended.
- 14. If this by-law is contravened and a conviction is entered, the Ontario Court of Justice or any court of competent jurisdiction after, may, in addition to any penalty imposed on the person convicted, issue an Order prohibiting the continuation or repetition of the offence by the person convicted.

TRANSITION

15. Where a permit has been issued under By-law Number 138-99, of the old Corporation of the Town of Collingwood, that permit continues in force and shall be deemed to be issued under this by-law for regulatory and enforcement purposes.


SHORT TITLE

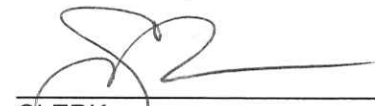
16. This by-law may be cited as the "Right-of-Entry By-law".

EFFECTIVE DATE

17. THAT this By-law shall come into full force and effect on the date of final passage hereof at which time all By-laws and/or resolutions that are inconsistent with the provisions of this By-law and the same are hereby repealed or rescinded insofar as it is necessary to give effect to the provisions of this By-law.

ENACTED AND PASSED this 26th day of April, 2010.


MAYOR


CLERK