



**MORIN-HEIGHTS  
1855**

**DRAFT - By-Law 646-2022  
Regarding Minor Exemptions**

September 14, 2022

# TABLE OF CONTENTS

**CHAPTER I: DECLARATORY, ADMINISTRATIVE, AND INTERPRETIVE PROVISIONS ..... 4**

**DIVISION A – DECLARATORY PROVISIONS..... 4**

1. Title of the by-law..... 4

2. Superseded by-law ..... 4

3. Scope ..... 4

4. Purpose of the by-law..... 4

5. Compliance with legislation..... 4

6. Adoption in parts..... 4

7. Entry into force..... 4

**DIVISION B – ADMINISTRATIVE PROVISIONS..... 4**

8. Administration of the by-law..... 4

9. Infractions and penalties ..... 4

**DIVISION C – INTERPRETIVE PROVISIONS ..... 5**

10. Rules of interpretation ..... 5

11. Structure..... 5

12. Definitions ..... 5

**CHAPTER II: PROCEDURAL PROVISIONS..... 6**

**DIVISION A – ELIGIBILITY OF EXEMPTION APPLICATIONS..... 6**

13. Eligibility of exemption applications..... 6

14. Zoning provisions open for application ..... 6

15. Subdivision provisions open for application..... 6

16. Special provisions for an application concerning works in progress and already completed ..... 6

**DIVISION B – CONTENT OF THE APPLICATION ..... 6**

17. Filing of exemption applications..... 6

18. Review and publication fees..... 7

19. Completion ..... 7

**DIVISION C – APPLICATION PROCESS..... 7**

20. Verification ..... 7

21. Recommendation of the Town Planning Advisory Committee ..... 7

22. Public notice ..... 7

23. Decision of the Municipal Council ..... 8

24. Transmission of the resolution to the RCM of Les Pays-d’en-Haut.....	8
25. Issuance of the permit or certificate .....	8
26. Expiry of the resolution granting a minor exemption .....	9
<b>DIVISION D – EVALUATION CRITERIA .....</b>	<b>9</b>
27. Criteria for evaluating exemption applications .....	9

## **CHAPTER I: DECLARATORY, ADMINISTRATIVE, AND INTERPRETIVE PROVISIONS**

### **DIVISION A – DECLARATORY PROVISIONS**

#### **1. Title of the by-law**

This by-law shall be known as “By-Law 646–2022 Regarding Minor Exemptions.”

#### **2. Superseded by-law**

This by-law supersedes, for all legal purposes, *By-Law 459 Regarding Minor Derogations* and its amendments, as well as any irreconcilable provisions of other by-laws.

This replacement does not affect the permits and certificates issued under the authority of the superseded by-law or the rights acquired before this by-law came into force.

#### **3. Scope**

This by-law applies to all people and throughout the entire territory of the Municipality of Morin-Heights.

#### **4. Purpose of the by-law**

The purpose of this by-law is to enable applications for exemptions from certain town planning by-laws and to permit the Municipal Council to grant or deny exemptions based on the evaluation criteria set out in this by-law.

#### **5. Compliance with legislation**

Compliance with this by-law does not release any person from the obligation to comply with any other provincial or federal legislation or any other municipal by-laws applicable to the matter.

#### **6. Adoption in parts**

This by-law is enacted chapter by chapter, division by division, section by section, paragraph by paragraph, and subparagraph by subparagraph so that if any part of this by-law is declared null and void by a court of law, the decision shall not affect the remaining parts of the by-law except to the extent that the meaning and scope of the by-law or any of its provisions are thereby altered or modified.

#### **7. Entry into force**

This by-law shall come into force in accordance with the law.

### **DIVISION B – ADMINISTRATIVE PROVISIONS**

#### **8. Administration of the by-law**

The administration and enforcement of this by-law shall be the responsibility of the designated official, whose powers are detailed in the *By-Law Regarding Permits and Certificates*.

#### **9. Infractions and penalties**

Any person who contravenes, or permits or tolerates the contravention, of any provision of this by-law; performs construction without a permit; or maintains a condition that requires a certificate without having first obtained one is guilty of an infraction. Individuals who commit such infractions shall be liable to a fine of not less than \$500 and not more than \$1,000; legal persons who commit such infractions shall be liable to a fine of not less than \$1,000 and not more than \$2,000.

For repeat infractions, individuals shall be liable to a fine of \$1,000 to \$2,000 plus costs and legal persons shall be liable to a fine of \$2,000 to \$4,000 plus costs.

If the infraction is of a continuous nature, it shall constitute a separate infraction each day and the offender shall be liable to the aforementioned fine for each day on which the infraction continues.

## **DIVISION C – INTERPRETIVE PROVISIONS**

### **10. Rules of interpretation**

The following rules of interpretation shall apply to this by-law in the event of conflicting provisions:

1. The most specific of the provisions shall prevail.
2. The most restrictive of the provisions shall prevail.
3. In the event of a discrepancy between a table, an illustration, or a title and the text, the text shall prevail.

### **11. Structure**

This by-law is structured as follows:

Chapter I: Chapter

Division A – Division

1. Section

Paragraph

1. Subparagraph

a) Clause

### **12. Definitions**

Unless the context otherwise dictates, words and phrases have the meaning assigned to them in the *By-Law Regarding Permits and Certificates*. If a word or expression is not defined, it is understood to have its common dictionary meaning.

## **CHAPTER II: PROCEDURAL PROVISIONS**

### **DIVISION A – ELIGIBILITY OF EXEMPTION APPLICATIONS**

#### **13. Eligibility of exemption applications**

The designated official shall assess whether the application qualifies for a minor exemption procedure based on the provisions of this division.

If the designated official concludes that the application is not eligible, they shall inform the applicant in writing of the reasons for their decision within 60 days of the application being filed.

#### **14. Zoning provisions open for application**

The provisions of the *By-Law Regarding Zoning* may be the subject of a minor exemption application, with the exception of the provisions relating to:

1. Uses, whether main, additional, accessory, or temporary;
2. Land use density, expressed in terms of dwellings per hectare;
3. The terms and conditions for contributions for parks, playgrounds, and natural areas;
4. The regulatory provisions adopted pursuant to subparagraphs 16 or 16.1 of the second paragraph of section 113 of the *Act respecting land use planning and development* (CQLR c. A-19.1), i.e. in a location where there are special constraints on land use for reasons of public safety, public health, environmental protection, or general welfare.

#### **15. Subdivision provisions open for application**

The provisions of the *By-Law Regarding Subdivision* may be the subject of a minor exemption application, with the exception of the provisions relating to:

1. The terms and conditions for contributions for parks, playgrounds, and natural areas;
2. The regulatory provisions adopted pursuant to subparagraphs 4 or 4.1 of the second paragraph of section 115 of the *Act respecting land use planning and development* (CQLR c. A-19.1), i.e. in an area where the use of land is subject to special constraints for reasons of public safety, public health, environmental protection, or general welfare.

#### **16. Special provisions for an application concerning works in progress and already completed**

If the exemption application is submitted for work in progress or already completed, a permit or certificate must have been obtained for the work at the time it was completed if the by-law in effect at the time required such a permit or certificate to be obtained.

### **DIVISION B – CONTENT OF THE APPLICATION**

#### **17. Filing of exemption applications**

To file a minor exemption application, applicants must complete and sign the application form, then submit it to the designated official.

The application, submitted as one (1) hard copy and one (1) digital (PDF) copy, must be accompanied by the following plans and documents:

1. Full contact information for the applicant and, if applicable, a mandate from the immovable's owner;
2. Title establishing that the immovable covered by the application is owned by the applicant;

3. Details of any proposed and existing exemptions, the reasons why the project cannot be carried out in compliance with the prescribed regulations, and an assessment of the application against the evaluation criteria set out in this by-law;
4. A proposed site plan prepared by a land surveyor for site exemption applications. A certificate of location prepared by a land surveyor must be submitted if the work is in progress or has already been completed;
5. The plans for the proposed structure if the application is for an exemption relating to a structure or part of a structure. If the work is in progress or has already been completed, as-built plans must be submitted and must identify the differences between the approved plans and the requested exemption. If the application is for the height of a building where work is in progress or has already been completed, the height must be established by a land surveyor;
6. Photographs of the immovable taken within 30 days prior to filing the application;
7. All other information, plans, and documents necessary to assess the application against the criteria in this by-law.

#### **18. Review and publication fees**

The application review fees, as well as the fees for the publication of public notices, are set out in the *By-Law Regarding Taxes, Tariffs, Service and Compensation Costs*.

In all cases, these fees are non-refundable and do not cover the fees for obtaining a permit or certificate.

#### **19. Completion**

Applications for minor exemptions shall be considered complete once all the required documents and plans have been filed with the designated official and the review fees have been paid.

### **DIVISION C – APPLICATION PROCESS**

#### **20. Verification**

Once the application is complete, the designated official shall verify that it complies with the town planning by-laws. Upon request, applicants must provide any additional information needed to interpret their applications.

If the plans and documents provided by an applicant are inaccurate, erroneous, insufficient, or non-compliant, the designated official shall notify the applicant that the verification process is being paused so that they can provide accurate, corrected, and sufficient information, plans, and documents for verification.

Once the verification is complete, the application shall be sent to the Town Planning Advisory Committee.

#### **21. Recommendation of the Town Planning Advisory Committee**

The Town Planning Advisory Committee shall issue a recommendation on exemption applications as they relate to the objectives and evaluation criteria set out in this by-law. If deemed appropriate, the Committee may suggest conditions to the Municipal Council to mitigate the impact of the exemption.

#### **22. Public notice**

The Clerk-Treasurer of the municipality shall publish a notice in accordance with the law governing the municipality at least 15 days prior to the sitting in which the Municipal Council will rule on the exemption application.

The notice shall state the date, time, and location of the Municipal Council sitting, as well as the nature and effect of the requested exemption. The notice shall indicate the

designation of the immovable in question using the street name and civic number (or the cadastral number, if there is no civic number available) and state that any interested person may be heard by the Council with respect to the application.

### **23. Decision of the Municipal Council**

The Municipal Council shall grant or reject the exemption application after receiving the advice of the Town Planning Advisory Committee.

The resolution by which the Council grants the exemption application may include any conditions, with due regard to the jurisdiction of the municipality, for the purpose of mitigating the impact of the exemption.

Resolutions rejecting applications must state the reasons for rejection.

A copy of the resolution shall be sent to the applicant.

### **24. Transmission of the resolution to the RCM of Les Pays-d'en-Haut**

If the resolution grants a minor exemption in a location where the use of the land is subject to specific constraints for reasons of public health or safety, environmental protection, or general welfare, the municipality must transmit a copy of the resolution to the RCM of Les Pays-d'en-Haut.

If, within 90 days of receiving a copy of the resolution, the RCM Council determines that the decision authorizing the exemption would result in an increased risk to public safety or health or an adverse effect on the quality of the environment or general welfare, it may:

1. Impose any condition covered in the second paragraph of section 23 of this by-law for the purpose of mitigating the aforementioned risk or impairment, or modify any condition prescribed by the Municipal Council for the same reason;
2. Reject the decision authorizing the exemption, if it is not possible to mitigate the risk or impairment.

A copy of any resolution passed by the RCM Council shall be forwarded to the municipality without delay.

In these cases, a minor exemption takes effect:

1. On the date that the RCM Council notifies the municipality that it does not intend to exercise the powers granted in the second paragraph;
2. On the effective date of the RCM Council's resolution imposing or amending conditions applicable to the exemption;
3. At the end of the timeframe provided in the second paragraph, if the RCM Council has not exercised the powers granted in that paragraph within the given timeframe.

The municipality shall forward the RCM Council's resolution to the applicant for the exemption or, if a resolution is not sent, inform the applicant that the municipality's decision to grant the exemption has taken effect.

### **25. Issuance of the permit or certificate**

The designated official may issue the permit or certificate upon presentation of a certified copy of the resolution by which the Council grants the permit or certificate or, if applicable, the resolution of the RCM Council.

The designated official shall issue the permit or certificate if the stated conditions are met at the time of issuance (or at a later date if specified in the conditions set out in the resolution) and if the plan complies with the *By-Law Regarding Permits and Certificates*, with the exception of any exemptions.



**26. Expiry of the resolution granting a minor exemption**

For work that requires a permit or certificate, the resolution granting an exemption shall be rendered null and void if the applicant does not request such a permit or certificate within 12 months of the date of the resolution. The resolution granting the exemption shall also be rendered null and void if the permit or certificate holder does not perform the work within the timeframe allotted by the *By-Law Regarding Permits and Certificates*.

For work that does not require a permit or certificate, the resolution granting an exemption shall be rendered null and void if the proposed work covered by the resolution does not begin within 12 months of the date of the resolution.

**DIVISION D – EVALUATION CRITERIA****27. Criteria for evaluating exemption applications**

Exemption applications are evaluated based on the following criteria:

1. The application meets the objectives of the town planning by-law.
2. The by-law, if enforced, results in serious harm to the person seeking an exemption.
3. The exemption, if granted, does not affect the enjoyment of property rights by the owners of neighbouring immovables.
4. The exemption, if granted, does not increase risk to public safety.
5. The exemption, if granted, does not increase risk to public health.
6. The exemption, if granted, does not adversely affect the quality of the environment or general welfare.
7. The exemption, if granted, does not adversely affect general welfare.
8. If the work is in progress or has already been completed, the work has been done in good faith.
9. The exemption is minor in nature.