



## THE CORPORATION OF THE TOWN OF ERIN

### By-Law # 23 – 44

#### Being a By-law to Provide for the Administration and Enforcement of the Building Code Act, 1992, S.O.1992 c.23 within the Town of Erin

**Whereas**, Subsection 7(1) of the Building Code Act, 1992, S.O.1992 c.23, as amended (the “Act”) authorizes Council to pass certain By-Laws respecting Building, Demolition and Change of Use Permits and Inspections;

**And Whereas**, Subsection 3(2) of the Act requires Council to appoint a Chief Building Official and Inspectors for the enforcement of the Act;

**And Whereas**, Subsection 7.1(1) of the Act requires Council to establish and enforce a Code of Conduct for the Chief Building Official and Inspectors;

**And Whereas**, Subsection 8(3.1) of the Act provides that Council may delegate to the Chief Building Official the power to enter into agreements described in clause 8(3)(c) of the Act (conditional Permits) and may impose conditions or restrictions with respect to the delegation;

**And Whereas**, Subsection 35(1) of the Act provides that the Act and Building Code supersede all municipal By-Laws respecting the construction or demolition of buildings;

**Now Therefore, the Council of the Corporation of the Town of Erin hereby enacts as follows:**

#### 1. SHORT TITLE

- 1.1 This By-Law may be cited as the “Building By-Law”

#### 2. DEFINITIONS

In this By-Law;

“**Act**” means the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended;

“**Applicable Law**” - means Applicable Law as defined in the *Building Code*;

“**Applicant**”- means the Owner of a property or building who applies for a Permit, or any person authorized by the Owner to apply for a Permit on the Owner's behalf, as defined in Division C, Article 1.3.1.2. of the *Building Code*;

“**Architect**”- means an Architect as defined in Division A, Article 1.4.1.2. of the *Building Code*;

“**As Constructed Plans**” - means As Constructed Plans as defined in Division A, Article 1.4.1.2. of the *Building Code*.

“**Building**” - means a Building as defined in Subsection 1(1) of the Act;

“**Building Code**”- means the regulations made under Subsection 34(1) of the Act;

“**Change of Use**” - means a Change of Use as referenced in Subsection 10(1) of the Act;

“**Chief Building Official**” - means the Chief Building Official, or their designate, appointed by a By-Law of the Town for the purpose of enforcing the Act;

“**Code of Conduct**” - shall have the same meaning ascribed thereto in Section 7.1

of the Act;

**“Construct”** - means Construct as defined in Subsection 1(1) of the Act and Construction shall have the same meaning;

**“Corporation”**- means the Corporation of the Town of Erin;

**“Council”** - means the Council of The Corporation of the Town of Erin;

**“Demolish”** - means Demolish as defined in Subsection 1(1) of the Act and Demolition shall have the same meaning;

**“Designated Structure”** - means structures designated for the purposes of clause (d) of the definition of Building in Subsection 1(1) of the Act;

**“Farm Building”** - means a Farm Building as defined in Division A, Article 1.4.1.2. of the *Building Code*;

**“Inspector”** - means an Inspector appointed by a By-Law of the Town for the purpose of enforcing the Act;

**“Owner”** - means an Owner as referenced in Division C, Sentence 1.3.1.2.(3) of the *Building Code*;

**“Permit”** - means written permission 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 a part of it, as regulated by the Act;

**“Plumbing”** - means Plumbing as defined in Subsection 1(1) of the Act;

**“Professional Engineer”** - means a Professional Engineer as defined in Division A, Article 1.4.1.2. of the *Building Code*;

**“Sewage System”** - means a Sewage System as defined in Division A, Article 1.4.1.2. of the *Building Code*; and

**“Town”**- means The Corporation of the Town of Erin

Any word or term not defined in this By-Law, which is defined in the Act or the *Building Code*, shall have the meaning ascribed to it in the Act or the *Building Code*.

Any word or term not defined in this By-Law, the Act, or the *Building Code*, shall have the meaning commonly assigned to it in the context in which it is used.

### **3. CLASSES OF PERMITS**

The classes of permits with respect to Construction, Demolition, Change of Use and Occupancy of a building, or part of it, include the following:

#### **3.1 Building Permit**

This Permit is required under Subsection 8(1) of the Act and may include plumbing, heating, ventilation and air conditioning systems, farm buildings and designated structures as set out in Div. A, Sentence 1.3.1.1.(1) of the *Building Code*.

#### **3.2 Demolition Permit**

This Permit is required under Subsection 8(1) of the Act.

#### **3.3 Conditional Permit**

This Permit may be issued in the discretion of the Chief Building Official in

accordance with Subsection 8(3) of the Act to authorize any stage of Construction, even though all the requirements under Subsection 8(2) of the Act have not been met.

#### 3.4 Change of Use Permit

This Permit is required under Subsection 10(1) of the Act when a change in use of a Building, or part of it, will result in an increase in hazard as determined under the *Building Code* even though no Construction is proposed.

#### 3.5 Occupancy Permit

This Permit is required under Division C, Subsection 1.3.3. of the *Building Code* where all or part of a Building will be occupied.

### 4. **ADMINISTRATIVE PROCEDURES RELATED TO PERMITS**

#### 4.1 Notice of Change

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 provided by the Applicant in writing to the Chief Building Official together with the details of such change. The change shall not be made without written authorization by the Chief Building Official as required under Subsection 8(12) of the Act.

#### 4.2 Transfer of Permit Applications and Permits

Where the ownership of land changes after a Permit application has been submitted and fees paid or where a Permit has been issued, the Applicant for the Permit or the person to whom the Permit was issued, may submit a request to the Chief Building Official requesting a transfer of Permit application and fees or the Permit as identified in Subsection 7(1)(h) of the Act by submitting the following information:

- a) the name and address of the person to whom the Permit application and fees or the Permit are to be transferred.
- b) the name and address of any contractors that have changed from those listed on the Permit application or the Permit;
- c) the name and address of Architect(s) and Professional Engineer(s) responsible for the design and field review of the Construction that have changed from those listed on the Permit application or the Permit; and,
- d) name and address of the person who paid the Permit fees.

#### 4.3 Revocation of Permits

The Chief Building Official, subject to provisions outlined in Subsection 8(10) of the Act, has the authority to revoke a Permit issued under the Act.

### 5. **REQUIREMENTS FOR APPLICATIONS**

#### 5.1 Building, Demolition, Conditional and Change of Use Permits

Where an application is made for a Building or Demolition Permit under Subsection 8 (1) of the Act, a Conditional Permit under Subsection 8(3) of the Act, or a Change of Use Permit under Subsection 10(1) of the Act, the application shall comply with Division C, Sentence 1.3.1.3.(5) of the

*Building Code* and be complete with documents and other information as required in this By-Law.

## 5.2 Prescribing Forms

The forms required for an application for a Permit, unless otherwise specified by the Chief Building Official, shall be those forms as set out in **Schedule "A"** of this By-Law.

## 5.3 Plans and Specifications

Sufficient information shall be submitted with each application for Permit to enable the Chief Building Official to determine whether the proposed construction, demolition or change of use will conform to the Act, the *Building Code*, and any other Applicable Law. Each application shall, unless otherwise specified by the Chief Building Official, be accompanied by two complete sets of working drawings and information as set out in **Schedule "A"** of this By-Law.

## 5.4 Alternative Solutions

Where a person proposed the use of an Alternative Solution as defined in Division A, Article 1.4.1.2. of the *Building Code*, the proposal shall:

- a) Include all documentation requirements as set out in Division C, Subsection 2.1.1. of the *Building Code*, and
- b) Be submitted on the application form as set out in **Schedule "A"** of this By-Law.

## 5.5 Inactive Permit Applications

Where an application for Permit remains inactive for six (6) months after it is submitted, the application may be deemed by the Chief Building Official to have been abandoned and notice thereof shall be given to the Applicant. Once an application is deemed to be abandoned, it may be cancelled, and a new application will be required for the proposed work.

# 6. PAYMENT OF FEES

- 6.1 The fees shall be as set out in the Towns Building Permit Fee By-Law as amended from time to time.
- 6.2 The amount of fees are due and payable at the time of Application Submission.
- 6.3 An administration fee, where the Occupancy of a Building, or part of it, has occurred without an occupancy Permit being issued as required by Division C, Articles 1.3.3.1, 1.3.3.4, 1.3.3.5. of the *Building Code*, shall be 20% of the original building permit fee and not less than the minimum permit fee amount as set out the in the Towns Fees and Charges By-Law, as amended from time to time, and are due and payable upon issuance of the occupancy Permit.
- 6.4 An administration fee, where any person has commenced Construction or Demolition, or has caused the Change of Use of a Building prior to receiving a Permit, shall be charged double the permit fee as set out in the Towns Building Permit Fee By-Law as amended from time to time, and is due and payable prior to the issuance of the Permit.
- 6.5 An administration fee for the repeal of an Order either registered or not

registered on the title of a property, shall be charged 50% of the building permit fee unless an administration fee has been already applied under 6.4 or 6.5 of this by-law.

- 6.6 Each building permit application for construction of a single dwelling residential unit, unless set out in the provisions of a subdivision, condominium and/or site plan control agreement, at the discretion of the Chief Building Official, is required to be accompanied by a site works and grading deposit.

Upon completion of all building construction and site works, the applicant is required to submit a Final Grading Certificate, as found in **Schedule "A"**, Forms, for review and approval by the Town. An Ontario Land Surveyor or Professional Engineer on behalf of the applicant will be required to certify that the final grading of the lot and the related building construction are in conformity with the survey approved by the Town. This certification is to be carried out after the property has been graded and seeded or sodded, which is to occur within 12 months after the date of a positive inspection prior to occupancy is completed by the Town's Building Department.

Upon receipt and approval of a positive Final Grading Certificate and once the building permit file has been closed by the Town's Building Department, the applicant may apply for return of securities by submitting a completed Request for Site Works and Grading Refund as found in **Schedule "A"**.

- 6.7 The Chief Building Official shall determine fees not described or included in the Towns Building Permit Fee By-Law, as amended from time to time.

## 7. REFUNDS

- 7.1 In the case of 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, as follows:

- a) 70% refund if administrative functions only have been performed.
- b) 50% refund if any zoning and plans examination functions have commenced.

- 7.2 Application for refund must be made in writing by the Applicant within 6 months of the date of permit application to be eligible for a refund of any permit fee.

- 7.3 No permit fee refund shall be made where the calculated permit refund or the remaining surrendered fee is less than the minimum fee set out in the Towns Building Permit Fee By-Law

- 7.4 Fees for Conditional Permits and Alternative Solutions are non-refundable

## 8. AS CONSTRUCTED PLANS

The Chief Building Official may require that As Constructed Plans of a building be filed with the Chief Building Official on completion of Construction under such conditions as may be prescribed in the *Building Code*.

## 9. NOTICE REQUIREMENTS FOR INSPECTIONS

The applicant or an authorized agent shall notify the Chief Building Official of the prescribed notices under Division C, Article 1.3.5.1. and additional notices under Division C 1.3.5.2 (1) (b)(c i) (c iii) (h) and (j) of the *Building Code*, at least two business day prior to each stage of Construction.

## **10. FENCES**

10.1 All construction and demolition site fencing shall adhere to the requirements pertaining to Public Way Protection as set out in the Occupational Health & Safety Act.

10.2 Where in the opinion of the Chief Building Official a construction or demolition site presents a particular hazard to the public the Chief Building Official may require the erection of fencing around the site. The fencing shall be erected as per the requirements of 10.1 and the National Building Code of Canada, as amended:

### *NBCC 8.2.1.3. Fencing, Boarding or Barricades*

*1) When a construction or demolition activity may constitute a hazard to the public and is located 2 m or more from a public way, a strongly constructed fence, boarding or barricade not less than 1.8 m high shall be erected between the site and the public way or open sides of a construction site.*

*2) Barricades shall have a reasonably smooth surface facing the public way and shall be without openings, except those required for access.*

*3) Access openings through barricades shall be equipped with gates that shall be kept closed and locked when the site is unattended, and maintained in place until completion of the construction or demolition activity.*

## **11. CODE OF CONDUCT**

The Code of Conduct for the Chief Building Official and Inspectors, as required under Subsection 7.1(1) of the Act, is set out in **Schedule "B"** of this By-Law.

## **12. SEVERABILITY**

Where a court of competent jurisdiction declares any section or part of a section of this By-Law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this By-Law that the remainder of this By-Law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

## **13. ENFORCEMENT AND PENALTIES**

13.1 Any person who contravenes any provision of this By-Law is guilty of an offence and, upon conviction, is liable to the provisions and penalties prescribed in the Act.

13.2 In addition to any penalties imposed through prosecution of an offence pursuant to this By-Law, The Corporation of the Town of Erin is entitled to use all legal means at its disposal to collect the fees applicable pursuant to this By-Law. All collection methods lawfully applicable may be relied upon, including placement of unpaid fees on the tax collector's roll for the property in question.

## **14. REPEAL CLAUSE**

By-Law #99-18 and all its amending By-Laws and By-Law #19-34 are hereby repealed and replaced by this By-Law as of the date of its passage by Council.

**15. DATE BY-LAW IN FORCE**

This By-law shall come into force and take effect upon the final passage thereof.

**Passed in open Council on November 9, 2023.**



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**Mayor, Michael Dehn**



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**Clerk, Lisa Campion**

## **Schedule "A"**

### **By-Law Number 23-44 REQUIRED INFORMATION FOR PERMIT APPLICATIONS**

The following are lists of plans, working drawings, information and forms that may be required to accompany applications for Permits according to the scope of work. Additional information may be required at the discretion of the Chief Building Official.

#### **1. PLANS AND WORKING DRAWINGS**

- a) Site Plans
- b) Roof Truss Layout Plans and Truss Components
- c) Sections and Details
- d) Building Elevations
- e) Structural Drawings
- f) Mechanical Drawings
- g) Building Code Matrix
- h) Alternative Solution
- i) Floor Plans
- j) Roof Plan
- l) Architectural Drawings
- m) Electrical Drawings
- n) Fire System Drawings
- o) Travel Distance and Exit capacity drawings

- 1.2 Each application for permit shall, unless otherwise specified by the Chief Building Official, be accompanied by a completed set of the plans, specifications and other documents in electronic .pdf file format.
- 1.3 If applicable, drawings must be sealed by an Architect and/or Professional Engineer and/or stamped by a qualified/registered designer.
- 1.4 All drawings shall be fully dimensioned, noting all sizes and types of construction materials to be used and their respective locations, all finishes to all walls, ceilings and floors and all existing and proposed fire separations. Alterations, renovations, and additions must differentiate between the existing building and new construction being proposed. Site plans must include a north arrow, lot lines and existing easements.

#### **2. INFORMATION**

- 2.1 Spatial separation calculations
- 2.2 Fire protection reports
- 2.3 Building Code related reports



### **3. FORMS**

- 3.1 Application for a Permit to Construct or Demolish
- 3.2 Application for an Alternative Solution
- 3.3 Commitment to General Reviews by Architects and Engineers
- 3.4 Energy Efficiency Forms (s), i.e. (SB-10 and SB-12)
- 3.5 Mechanical Ventilation Summary Form
- 3.6 MDS I & II information form
- 3.7 Demolition Checklist
- 3.8 Final Grading Certificate
- 3.9 Request for Site Works and Grading Refund

## Schedule "B"

### By-Law Number 23-44

## CODE OF CONDUCT FOR CHIEF BUILDING OFFICIAL AND INSPECTORS

### 1. PURPOSE

- 1.1 Promote the safety of buildings with reference to public health, fire protection, structural sufficiency, conservation and environmental integrity and barrier free accessibility.
- 1.2 Apply the *Building Code Act* and the Building Code impartially, without the influence and in accordance with all applicable legislation.
- 1.3 Act within the area of qualification obtained under the *Building Code Act*.
- 1.4 Perform duties with due diligence, honesty, and integrity.
- 1.5 Extend courtesy to everyone and adhere to the Town's Vision Statement on Access, Equity and Diversity.
- 1.6 Keep abreast of current building practices through continuous education.
- 1.7 Comply with the Town of Erin conflict of interest policy.
- 1.8 Manage confidential and sensitive information according to the Town's guidelines and relevant legislation.

### 2. GUIDELINES FOR THE CODE OF CONDUCT

Promote the safety of buildings with reference to public health, fire protection, structural sufficiency, conservation and environmental integrity, and barrier free accessibility.

The Ontario Building Code states:

*"The Code is essentially a set of minimum provisions respecting the safety of buildings with reference to public health, fire protection, structural sufficiency, conservation and environmental integrity, and barrier free accessibility. It's the primary purpose is the promotion of public safety through the application of appropriate uniform building standards."*

- 2.1 The CBO and the Inspectors are expected to:
  - 2.1.1 Act in the public interest with respect to health and safety issues in relation to building; and
  - 2.1.2 Take all reasonable precautions to ensure the safety of the public, Town staff and themselves.
  - 2.1.3 Apply the *Building Code Act* and Building Code impartially, without influence and in accordance with all applicable legislation.
- 2.2 The CBO and the Inspectors are expected to perform duties:

- 2.2.1 In the manner that maintains and promotes public safety at all times.
  - 2.2.2 With integrity, objectivity and impartiality;
  - 2.2.3 Without any influence from anyone;
  - 2.2.4 In a fair and consistent manner;
  - 2.2.5 Efficiently and in a timely manner; and
  - 2.2.6 Act within the area of qualification obtained under the *Building Code Act*.
- 2.3 The CBO and the Inspectors are expected to:
- 2.3.1 Act within the area of qualification obtained under *the Building Code Act*;
  - 2.3.2 Seek assistance when required;
  - 2.3.3 Participate in training as required by the *Occupational Health and Safety Act*, the *Building Code Act* and other legislation; and
  - 2.3.4 Perform duties with due diligence, honesty, and integrity.
- 2.4 The CBO and Inspectors are expected to:
- 2.4.1 Conduct themselves with the highest degree of ethical behaviour and integrity;
  - 2.4.2 Ensure public confidence and trust are maintained at all times;
  - 2.4.3 Protect and promote the best interest of the Town;
  - 2.4.4 Ensure the protection and appropriate use of the Town's resources and assets;
  - 2.4.5 Perform duties without misleading the public; and
  - 2.4.6 Extend courtesy to everyone and adhere to the Town's Vision Statement on Access, Equity and Diversity.
- 2.5 The CBO and Inspectors are expected to:
- 2.5.1 Be ambassadors and reflect a professional image at all times;
  - 2.5.2 Treat the public and each other with respect at all times;
  - 2.5.3 Be reasonable and fair in their expectations of each other;
  - 2.5.4 Resolve conflict in a professional manner;
  - 2.5.5 Be courteous and considerate to all through language and actions;
  - 2.5.6 Recognize the dignity of all people by equitable treatment of communities and employees; and
  - 2.5.7 Keep up to date on current building practices through continuous education.
- 2.6 The CBO and Inspectors are expected to:
- 2.6.1 Obtain qualifications as required to be appointed and remain to be appointed under the *Building Code Act*;
  - 2.6.2 Maintain qualifications as requirements evolve and/or change;
  - 2.6.3 Keep current on construction practices and standards through continuous education and training;
  - 2.6.4 Be mentors to each other at all times; and
  - 2.6.5 Comply with the Town's conflict of Interest policy.
- 2.7 The CBO and the Inspectors are expected to:

- 2.7.1 Maintain confidentiality regarding city business;
- 2.7.2 Disclose information in compliance with the *Municipal Freedom of Information and Protection of Privacy Act* "MFIPPA"; and
- 2.7.3 Ensure that no information collected, produced or obtained in the course of duties, whether reports, memos verbal/written/electronic communication is disclosed without proper approval.

### **3. GUIDELINES FOR HANDLING ALLEGATIONS OF BREACHES OF THE CODE OF CONDUCT**

- 3.1 The *Building Code Act* prescribes that the conduct of the CBO and the Inspectors will be measured against the Code. Contravention of the Code is a serious matter to the Building Services Department and the public and will be treated as such.
- 3.2 Lodging a Complaint  
A complaint must be in writing and must be signed by the person making the complaint. The complaint may be a letter or an e-mail.
- 3.3 Withdrawal of Complaint  
A Complainant may withdraw their complaint at any time; although the Town may continue to investigate the complaint if deemed appropriate to do so.
- 3.4 Confidentiality  
The entire investigation process will be handled in as confidential a manner as possible by all parties involved. All records are subject to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA") and may be subject to disclosure under MFIPPA or by a court of law.
- 3.5 The CBO, in consultation with the Directors, will review any allegations of breaches of the Code made against an Inspector. The CBO shall direct an investigation, if justified and where appropriate, and recommend disciplinary action against the inspector who fails to comply with the Code.
- 3.6 Where the allegations are against the CBO, the Town's senior management will evaluate and investigate the allegations, where necessary, and make recommendations to Council for appropriate action.

### **4. DISCIPLINARY ACTION**

- 4.1 Disciplinary action arising from violations of the Code is the responsibility of the Town of Erin and the CBO and will be based on the severity and frequency of the violation in accordance with employment laws, standards and relevant collective agreements.

### **5. PUBLIC NOTICE FOR THE CODE OF CONDUCT**

- 5.1 The *Building Code Act* states that the code must be brought to the attention of the public.
- 5.2 The Building Services Department will advertise the Code on an ongoing basis via the Town's website.
- 5.3 Post in a conspicuous location at the Building Services Customer Service counter.