

THE CORPORATION OF THE TOWNSHIP OF ESSA

BY-LAW NUMBER 2010-53

A By-Law respecting Construction, Demolition, Private Sewage Disposal Systems, Change of Use, Inspections and related matters, as authorized by Section 7 of the Building Code Act, 1992, S.O. 1992, c.23; and to repeal By-Law 2006-32.

WHEREAS Section 7 of the *Building Code Act, 1992, s.o.1992, c.23*, empowers Council to pass by-laws respecting construction, demolition, private sewage disposal systems, change of use and inspections.

NOW THEREFORE the Council of the Corporation of the Township of Essa enacts as follows:

SECTION 1 DEFINITIONS

- 1.1 Terms not defined in this By-Law shall have the meaning ascribed to them in the *Act* or the *Building Code*.
- 1.2 In this By-law words and phrases listed below have the following meaning:
 - 1.2.1 **Act** means *the Building Code Act, 1992, S.O. 1992, c.23* including its amendments.
 - 1.2.2 **Applicant** means the *owner* of a building or property who applies for a *permit* or any person authorized to apply for a *permit* on the *owner's* behalf, or any person or corporation empowered by statute to cause the construction or demolition of a building or buildings and anyone acting under the authority of such person or corporation.
 - 1.2.3 **Applicable Law** means any general or special Act, and all regulations and by-laws enacted under them that prohibit the proposed use of the building unless the Act, regulation or by-law is complied with.
 - 1.2.4 **Architect** means a holder of a licence, certificate of practice, or a temporary licence under the Architect Act as defined in the *Building Code*.
 - 1.2.5 **As Constructed Drawings** means constructed plans as defined in the *Building Code*.
 - 1.2.6 **Building** means a building as defined in section 1(1) of the *Act*.
 - 1.2.7 **Building Code** means the regulation made under Section 34 of the *Act*.
 - 1.2.8 **Building Permit** means permission or authorization given, in writing, to perform work related to, and/or occupy, and/or use of buildings regulated by this By-Law and the *Act* including *farm buildings*.

- 1.2.9 **Chief Building Official** means the Chief Building Official appointed by the by-law by Council for the purposes of enforcement of the *Act, the Building Code*, and this By-Law.
- 1.2.10 **Complete Application** means an application that meets the requirements for applications set out in the *Building Code*.
- 1.2.11 **Construct** means construction as defined in subsection 1(1) of the *Act*.
- 1.2.12 **Demolish** means construction as defined in subsection 1(1) of the *Act*.
- 1.2.13 **Farm Building** means a building as defined in the *Building Code*.
- 1.2.14 **Inspector** means an Inspector appointed under Section 3 of the *Act*.
- 1.2.15 **Mobile Home** means a transportable single family dwelling unit designed and built to be transported on its own chassis or frame. It may contain parts that can be folded, collapsed, or telescoped when being towed and expanded later to provide additional floor space. It can also be two or more separately towable components that are joined on the chosen site. A mobile home is designed for long term, year round occupancy. It has facilities for cooking, eating, living, sleeping and sanitation. A mobile home shall not include a travel trailer, tent trailer or trailer otherwise designed.
- 1.2.16 **Owner** means, in respect of the property on which the construction is to take place, the registered owner of the land and, may include lessee, mortgagee in possession and the person acting as the owner's authorized agent.
- 1.2.17 **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*.
- 1.2.18 **Person(s)** means any human being, association, firm, partnership, private club, incorporated company, corporation, agent or trustee and their heirs, executors or other legal representatives of a person to whom the context can apply according to law.
- 1.2.19 **Permit holder** means the *owner* to whom the permit has been issued.
- 1.2.20 **Plumbing** means plumbing as defined in Section 1(1) of the *Act*.
- 1.2.21 **Private Sewage Disposal System** means a sewage system as defined in Subsection 1.4.1.2 of Division A Part 1 of the *Building Code*.
- 1.2.22 **Professional Engineer** means a person who holds a licence or temporary licence under the Professional Engineer's Act, as defined in the *Building Code*.
- 1.2.23 **Regulations** mean regulations made under the *Act*.
- 1.2.24 **Reinspection** means any inspection of a construction stage carried out pursuant to a previous inspection of the same stage and was required because at the time of the

previous inspection, the construction stage was incomplete or otherwise did not comply with the requirements of this By-Law. A reinspection is carried out subsequent to notification of readiness by the owner or their agent in accordance with the *Ontario Building Code*.

1.2.25 **Renovation** means the repair, replacement, installation or application of roofing materials, exterior wall cladding, storm windows, storm doors, eaves trough, exterior porch and stair railings, guards, masonry repair, caulking, insulation and heating systems. All renovation work is carried out in or on a previously existing building and does not include the structural changes or affect the life safety systems of the building.

1.2.26 **Revised Submission** means addition information filed with the *Chief Building Official* which depicts one or more changes to the proposed or as-constructed design of a building or part of a building for which a permit has already been issued and for which approval by the *Chief Building Official* is required.

1.2.27 **Township** means the Corporation of the Township of Essa.

SECTION 2 SHORT TITLE

2.1 This By-law may be cited as the Building By-Law.

SECTION 3 ADMINISTRATIONS

3.1 Building Permit Required

3.1.1 No person shall construct, alter renovate, demolish, remove, or relocate or cause to be constructed, altered, renovated, demolished, removed, relocated a building, construct, repair, renew or alter plumbing, or septic systems or occupy or use a building regulated by this By-law within the territorial limits of the Township of Essa unless a permit has been issue by the *Chief Building Official*.

3.1.2 No person shall make a material change, or cause change to be made to a plan, specification, document or other information on the basis of which a permit was issued, without notifying the *Chief Building Official* and filing details of such changes with him/her for the purpose of obtaining authorization.

3.1.3 Applications may be made for revision to a building permit after issuance and such application shall be made in the same manner as the original permit.

3.1.4 Where property changes ownership for which a permit has been issued, the new registered owner shall assume full responsibility for the building permit.

3.1.5 Every building permit holder shall post in a conspicuous location on the work site, the building permit placard that is issued with the building permit and shall be responsible for maintaining the placard in a legible condition until the work allowed by the permit is complete.

3.1.6 In accordance with the provisions of Section 8, Subsection 10, and Section 25 of the Act, the *Chief Building Official* may revoke a building permit.

SECTION 4 PERMITS NOT ASSIGNABLE

- 4.1 Building permits are not assignable. In the event that property changes ownership when work allowed by a building permit is not completed, the construction permit shall become invalid, and the new owner or agent of the owner shall make application for a permit for any work proposed for which a construction permit is required.

SECTION 5 CLASSES OF PERMITS

- 5.1 For purposes of provision Subsection 3.1.1, the prescribed class of permits are :
- 5.1.1 **Building Permit.** This permit is generally used for all types of construction governed by the Building Code, including plumbing, septic systems, renovations, signs, designated structures and farm buildings, but not limited to the aforementioned.
- 5.1.2 **Demolition Permit.** This permit governs both the type and method of demolition under the Building Code and is a requirement under Section 8.(1) of the Act. The applicant for a permit for the demolition of a building is required to retain a professional engineer to undertake a general review of the project during demolition of the building and meets certain criteria as outlined by Division C, Part 1, 1.2.2.3. **Demolition of a Building** in the *Building Code*.
- 5.1.3 **Plumbing Permit.** This permit is for all construction and renovation of plumbing system defined in Section 1(1) of the Act and Part 7 of the Building Code.
- 5.1.4 **Designated Structure Permit.** This permit is for the construction of all designated structures as defined under Division A, Part 1, 1.3.1.1. **Designated Structures** in the *Building Code*.
- 5.1.5 **Sign Permit.** This permit is required for all signs to be issued/installed pursuant to Section 3.15 of the *Building Code*.
- 5.1.6 **Change of Use Permit.** This permit is used where a change of use resulting in an increase in hazard as determined under Division A Part 1, 1.1.2.5. **Application of Part 10** and Division C Part 1, 1.3.1.4 **Permits Under Section 10 of the Act.** in the *Building Code*.
- 5.1.7 **Restricted Occupancy Permit.** This permit is used for Buildings deemed by the *Township* to be of a temporary nature.
- 5.1.8 **Sewage System Permit.** This permit is for the construction and repair of sewage systems in accordance with Part 8 of the *Building Code*.
- 5.1.9 **Heating, Ventilation and Air Conditioning Permit.** This permit is for the installation and assessment of compliance with the mechanical components of the *Building Code*.
- 5.1.10 **Conditional Permit.** This permit may be issued in the discretion of the *Chief Building Official* to authorize any stage of construction, even though all of the requirements under subsection 8(2) of the *Act* have not been met such as compliance with other *applicable law*. The requirements of Section 8(3) (a)(b) and (c) of *the Act* must be met before a conditional permit may be issued.

SECTION 6 REQUIREMENTS FOR APPLICATION

6.1 To obtain a permit, the owner or an agent authorized in writing by the owner shall file an application in writing by completing a prescribed form(s) available from the Township office or from the Building Code website www.obc.mah.gov.on.ca .

6.2 Building Permits

6.2.1 Every building permit shall be submitted to the *Chief Building Official*, and contain the following information:

6.2.2 Where an application is being made for a Building Permit under Section 8(1) of the *Act*, the application shall:

- (a) Identify and describe in detail the work to be covered by the permit for which application is being 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.
- (c) Include complete plans and specifications as described in this By-law for work to be covered by the permit and show the occupancy of all parts of the building, details of the existing Sewage System, if any.
- (d) State the estimated value of the proposed work including materials and labour and to be accompanied by the required fees.
- (e) State the names, addresses and phone numbers and may state the fax number and/or cell phone numbers, of the owner, architect, engineer or other designer and constructor.
- (f) Be accompanied by complete plans and specifications as described in this by-law for the work to be covered by the permit and show the occupancy or all parts of the building, details of the existing Sewage System, if any.
- (g) State the names, addresses and telephone numbers and may state the fax number and/or cell numbers of the owner, architect or a professional engineer to carry out the field review of the construction where required by the Ontario Building Code.
- (h) State the names for each individual who reviews and takes responsibility for the design activities with respect to the project and shall state the design activities for which each individual is qualified pursuant to the Building Code.
- (i) Be signed by the owner or authorized agent who shall certify the truth of the contents of the application.
- (j) Be accompanied by all the necessary approvals required by law as set out in the Schedules and referenced in Division A Part 1, 1.4.1.3 **Definition of Applicable Law** in the Building Code.

6.3 Demolition Permits

6.3.1 Where an application is made for a demolition permit under Section 8(1) of the *Act*, the application shall:

- (a) Contain the information required by clauses 6.2.2.(a) to (g).
- (b) Suitable drawings identifying the location of the building(s) to be demolished and any other buildings within the proximity of the demolition which are to remain.

- (c) Be accompanied by satisfactory proof that arrangements have been made with the proper authorities for the cutting off and plugging of all water, sewer, gas, electric, telephone or other utilities and services.

6.4 **Conditional Permits**

6.4.1 Where application is made for a conditional permit under Subsection 8(3) of the *Act*, the application shall:

- (a) Contain the information required by clauses 6.2.2.(a) to (g).
- (b) Contain such other information, plans and specifications concerning the complete project as the Chief Building Official may require.
- (c) State the reasons why the applicant believes that unreasonable delays in construction would occur if a conditional permit is not granted.
- (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, and
- (e) State the time in which plans and specifications of the complete building will be filed with the *Official Chief Building*.

6.5 **Change of Use Permits**

6.5.1 Every application for a change of use permit issued under Section 10(1) of the *Act* shall be submitted to the *Chief Building Official*, and shall:

- (a) Contain the information required by clauses 6.2.2 (a) to (g).
- (b) Describe the building in which the occupancy is to be changed, using 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 which show the current and proposed occupancy for 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 existing sewage system if any.
- (e) Be accompanied by the required fee.
- (f) State the name, address, telephone, and fax 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.

6.6 **Sewage System Permits**

6.6.1 Every application for a sewage system shall be submitted to the *Chief Building Official*, and contain the following information:

- 6.6.1.1.(a) The information required by clauses 6.2.2 (a) to (g) in respect to building permits.
- (b) The name, address, telephone number and Building Code Identifier Number of the person installing the Sewage System.

and

- 6.6.1.2.(a) Site evaluation which shall include all of the following items, unless otherwise specified by the *Chief Building Official*.
- (b) The date the evaluation was done.
- (c) Name, address, telephone number and signature of the person who prepared the Evaluation.
- (d) A scaled map of the site showing:
 - the legal description, lot size, property dimension, existing rights-of-way, easements of municipal/utility corridors
 - the location of items listed in column 1 of Tables 8.2.1.5.A, 8.2.1.5.B, and 38.2.1.5.C,
 - the location of the proposed sewage system,
 - the location of any unsuitable, disturbed, or compacted areas and,
 - proposed access routes for system maintenance.
- (e) Depth to bedrock
- (f) Depth to zones of soil saturation.
- (g) Soil properties, including soil permeability (T Time Test)
- (h) Soil conditions, including the potential for flooding.

6.7 Conditional Permits

- 6.7.1 This permit may be issued at the discretion of the *Chief Building Official* to authorize any stage of construction, even though all of the requirements under Subsection 8(2) of *the Act* have not been met such as compliance with other applicable law. The requirements of Section 8(3) (a), (b) and (c) of the *Act* must be met before a conditional permit may be issued.

6.8 Plans Specifications and Information

- 6.8.1 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 with *The Act*, *The Building Code* and any other applicable law.
- 6.8.2 Each application shall, unless otherwise permitted by *the Chief Building Official*, shall be accompanied by two(2) complete sets of plans and specifications required under this By-law.
- 6.8.3 Plans shall be drawn to scale on paper, or other durable commonly used material, shall be legible and, without limiting the generality of the foregoing, shall include such working drawings as set out in the Schedules.
- 6.8.4 Unless otherwise permitted by *the Chief Building Official*, site plans shall refer to an up to date survey. When an applicant is 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*.
- 6.8.5 Site Plans shall show:

- (a) Lot size and dimensions of property lines and setbacks to any existing or proposed buildings,
 - (b) Existing and finished ground levels or grades, and
 - (c) Existing right of way, easements, and municipal services
 - (d) Proposed fire access routes and existing fire hydrant locations.
- 6.8.6 Plans and specifications furnished according to this by-law or otherwise required by the Act shall become the property of the municipality and will be disposed of or retained in accordance with relevant legislation.
- 6.8.7 On completion of the construction of a building, the Chief Building Official may require the applicant to file a set of “as constructed” plans, including a plan of survey showing the location of the building.
- 6.9 Deemed Abandonment**
- 6.9.1 Where an application for a permit remains incomplete and inactive for six months (6) after it is made, the application may be deemed by the *Chief Building Official* to have been abandoned and notice may be sent to the applicant.
- 6.9.2 Where a building permit, 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 may be revoked or deemed abandoned.
- 6.9.3 Where a building permit, if the construction or demolition of the building is, in the opinion of the *Chief Building Official*, substantially suspended or discontinued for a period more than one year may be revoked or deemed abandoned.

SECTION 7 FENCING OF CONSTRUCTION SITES

- 7.1 In the opinion of the *Chief Building Official*, if a construction site presents a particular hazard to the public, he or she may require the erection of such fencing as he or she deems appropriate to the circumstances. The required fencing shall be as described in the National Building Code, Section 8.2.
- 7.2 In considering the hazard presented by a construction site, the necessity for fencing, and its construction, the *Chief Building Official* shall have regard for:
- (a) The proximity of construction site to the occupied dwellings;
 - (b) The proximity of the construction site to lands accessible to the public, including but not limited to streets, parks, commercial and institutional activities,
 - (c) The hazards presented by the construction activities and materials
 - (d) The feasibility and effectiveness of site fencing, and
 - (e) The duration of the hazard.

SECTION 8 APPROVAL IN PART

- 8.1 In order to expedite work, when approval for a building permit for a portion of the building, or project is desired, prior to the issuance of the permit for the complete building or project, an application shall be made and fees paid for the complete project. Complete plans and specifications for the portion desired, shall be submitted with the

application together with sufficient information relative to the whole project to enable the *Chief Building Official* to determine whether or not the whole of the work proposed will conform with the requirements of this by-law and any other applicable law at the time of the application.

- 8.2 Where a permit is issued for part of a building or project, the issuance of the permit 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.
- 8.3 Permits required for the remainder of the project will be granted subject to the laws, rules and regulations in effect at the time a subsequent application is made.

SECTION 9 PAYMENT OF FEES

- 9.1 Fees for a required permit shall be set out in the Township's Schedule of Fees By-law and are payable upon issuance of the permit.
- 9.2 All fees and deposits associated with a permit shall be paid in full, prior to issuing of the permit and the commencement of construction.
- 9.3 Where the fees payable in respect of an application for a permit issued under Subsection 8(1) of the Act or under Subsection 8(3) of the Act are based on floor area, floor area shall mean the total floor space of all storeys above grade measured as the horizontal area between the exterior walls of the building, except that floor areas below ground are measured as the horizontal area between the interior of the foundation walls.
- 9.4 The *Chief Building Official* may place a valuation on the cost of the proposed work for the purpose of establishing the permit fee, 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 actual costs, and where the audited costs are determined to be less than the valuation, the *Chief Building Official* shall issue a refund.

SECTION 10 REFUND OF FEES

- 10.1 Building permit holders shall be eligible for a refund in accordance with the provisions set out below:
 - 10.1.1. When the work with respect to an issued permit is not commenced and the permit holder applies for a refund within six (6) months from the date of the permit issuance;
 - 10.1.2 When the work with respect to an issued permit is commenced and then abandoned and the permit holder applies for a refund within six (6) months from the date of the issuance of the permit;
 - 10.1.3 When the work has commenced and the issued permit has become invalid by reason of change of ownership of the property and the permit holder applies for a refund with twelve (12) months from the date of issuance of the permit;

Amount of refunds

- 10.2 Where work for which an issued building permit is not commenced, or has been abandoned, or when a building permit has become invalid a portion of the fees paid may be refunded as follows:
 - 10.2.1 90% of the fee paid if only administrative functions have been performed by the *Township*;
 - 10.2.2 80% of the fee paid if administrative and zoning functions have been performed by the *Township*;
 - 10.2.3 60% of the fee paid if administrative, zoning and plan examination functions have been performed by the *Township*; and
 - 10.2.4 55% of the fee paid less \$60.00 for each site inspection made by an Inspector if administrative, zoning, plan examination functions and site inspection have been performed by the *Township*.
- 10.3 There shall be no refund of any building permit fees when:
 - 10.3.1. A building permit has become void; and
 - 10.3.2 A building permit has been revoked.
- 10.4 Building fee refunds are only payable to the building permit holder, unless a written direction **from the building permit holder indicates otherwise, is received by the *Chief Building Official***, before a refund is issued.

SECTION 11 NOTICE OF REQUIREMENTS FOR INSPECTIONS

- 11.1 With respect to “**Prescribed Notices**” under Division C Part 1, 1.3.5.1. of *the Building Code*, the owner or an authorized agent shall notify the *Chief Building Official*, or *Inspector* at least two (2) business days prior to each stage of construction for which notice is required under the *Building Code*.
- 11.2 The *Chief Building Official* may, at the time of the building permit issuance, waive the requirement for notification for any construction stage, if such a requirements for notification is deemed not applicable to the proposed work.
- 11.3 Where an inspection of a stage of construction is conducted pursuant to notification and it is found at the time of inspection that the construction stage is incomplete or otherwise does not meet the requirement of the Building Code, the regulations thereunder and/or this by-law, the inspector shall issue a written report stating the nature of the non-compliance and requiring that the work be carried out and if deemed necessary, the inspector shall require a reinspection notification for this same stage of construction.
- 11.4 Where a reinspection is required due to incompleteness of the work notified for, a reinspection fee will apply each time an inspector must return for the same stage of construction.

- 11.5 Time period shall exclude Saturdays, holidays and all other days when the Township Building Department is not open for transaction of business with the public.

SECTION 12 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.

SECTION 13 RESTRICTED OCCUPANCY PERMIT

- 13.1 Despite any other provisions of this by-law the *Chief Building Official* may issue a "Restricted Occupancy Permit" for buildings deemed to be of a temporary nature, containing such terms and conditions as in his or her absolute discretion, he or she deems advisable. To ensure compliance with the terms and conditions specified, the *Chief Building Official* may require security to be posted for the removal of a building and the restoration of the site.

SECTION 14 VIOLATION AND PENALTY

- 14.1 Upon conviction for breach of any of the provisions of this By-law, the person so convicted shall be subject to the penalties as provided for under clause 36(1)(c) of the *Act*.

SECTION 15 VALIDITY

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

SECTION 16 BY-LAWS DECLARATIONS

- 16.1 The granting of any permit or acceptance of any drawings or any specifications or the making of any inspections made by the Inspector shall not, in any way, relieve the owner of such building or person responsible for the provisions of service, labour or materials to the building from the full and sole responsibility for carrying out the work or having the work carried out in accordance with the requirements of this *By-law*, the *Act*, its regulations and any other applicable legislation.
- 16.2 The granting of any permit, or the acceptance of any drawings or specification, or the making of any inspections by the *Inspector* shall not, in any way, relieve the owner of such building or person responsible for the provisions of service, labour or materials to the building from the full and sole responsibility for carrying out the work or having the work carried out in accordance with the requirements of the *By-law*, the *Act*, its regulations and any other applicable legislation.

SECTION 17 ATTACHED SCHEDULES

17.1 All schedules attached to this By-law shall be incorporated into and form part of this Building By-law.

SECTION 18 REPEAL OF PREVIOUS BY-LAW

18.1 By-law No.2006- 32 of the Corporation is hereby repealed.

SECTION 19 EFFECTIVE DATE

19.1 This By-law shall come into force and take effect on the day of passing.

READ A FIRST, AND TAKEN AS READ A SECOND AND THIRD TIME AND FINALLY PASSED on this First day of September 2010.

Original Signed By:

David Guergis, Mayor

Shawna Stone, Clerk