



# MUNICIPALITY OF **West Elgin**

## **The Corporation Of The Municipality Of West Elgin**

### **By-Law No. 2021-61**

#### **Being a By-law to Delegate Authority to Enter into Conditional Building Permit Agreements to the Chief Building Official**

**Whereas** Section 5(3) of the *Municipal Act, S.O. 2001*, as amended provides that the powers of the municipality shall be exercised by by-law; and

**Whereas** Section 23.1 of the *Municipal Act, S.O. 2001*, authorizes a municipality to delegate its powers and duties; and

**Whereas** Section 7 of the *Building Code Act, 1992, S.O. 1992 c.23* as amended, empowers Council to pass certain by-laws respecting construction, demolition, change of use, conditional permits, sewage systems and inspections; and

**Whereas** Section 8 (3) of the *Building Code Act, 1992, S.O. 1992 c.23* as amended, provides that even though all requirements have not been met to obtain a permit under subsection (2), the chief building official may issue a conditional permit for any stage of construction if it meets the criteria laid out; and

**Whereas** Section 8 (3.1) of the *Building Code Act, 1992 S. O. 1992 c. 23* as amended provides that A principal authority, may in writing, delegate to the chief building official the power to enter into agreements described in Section 8(3)(c) and may impose conditions or restrictions with respect to the delegation; and

**Whereas** it is deemed expedient to delegate the authority to enter into conditional building permit agreements to the Chief Building Official substantially in the form of the attached agreement.

**Now therefore** the Council of the Municipality of West Elgin enacts as follows:

1. That the Council of the Municipality of West Elgin hereby delegates the powers, and duties to the Chief Building Official to enter into Conditional Building Permit Agreements, substantially in the form of Conditional Building Permit Agreement identified as Schedule "A" attached hereto and forming an integral part of this By-law.

2. That the Chief Building Official and Clerk are hereby authorized and directed to execute such agreements and affix the Seal of the Corporation of the Municipality of West Elgin thereto.
3. This by-law shall come into force and effect on the final passing thereof.

Read a first, second, and third time and finally passed this 28<sup>th</sup> day of October, 2021

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Duncan McPhail  
Mayor

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Jana Nethercott  
Clerk

## Schedule "A" to By-Law 2021-61

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BETWEEN:

\_\_\_\_\_  
(hereinafter called the "Owner")

- and -

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**The Corporation of the Municipality of West Elgin**

(hereinafter called the "Municipality")

**WHEREAS** the Owner has requested a conditional permit from the Municipality prior to meeting all requirements to obtain a building permit according to the Ontario Building Code Act s.8.(2);

**AND WHEREAS** the Chief Building Official is satisfied that meeting such requirements would unreasonably delay the subject construction;

**AND WHEREAS** the Chief Building Official considers the restoration of the site to be feasible in the event that all the necessary approvals are not obtained;

**NOW THEREFORE THIS AGREEMENT WITNESSETH THAT** in consideration of the mutual covenants hereinafter expressed and other good and valuable consideration, the Parties hereto agree one with the other as follows:

1. The lands affected by this agreement (hereinafter referred to as the "subject lands") are as follows:

**ALL AND SINGULAR** those certain parcels or tracts of land lying and being in the Municipality of West Elgin, and being composed of:

\_\_\_\_\_(legal description of property)

and also known as

(municipal address)

2. The construction affected by this agreement (herein referred to as the "subject construction") is that construction proposed in a permit application filed with the Municipality and identified as permit application number,

\_\_\_\_\_

(permit application number)

3. The Municipality of West Elgin issues conditional building permits for construction on the lands described on the conditional building permit. The Municipality accepts no responsibility for any damages resulting from decisions made or actions of the Permit Holder. The Permit Holder and its representatives undertaking work based on the conditional permit assumes all risk in connection therewith and any damages done or occasioned thereby shall be at the sole risk and expense of the Permit Holder. The Permit Holder agrees to release, indemnify, and hold the Municipality harmless from and against all loss, cost, claims and expenses arising out of, or attributed to, exercising its rights under the conditional permit.

4. The Owner hereby agrees:

CONDITIONS TO BE SET BY CBO AND APPROVED BY LEGAL COUNSEL

- (i) to pay to the Municipality as security for the Contractor's performance under the Conditional Permit Agreement the sum of \_\_\_\_\_ to be held as security for ensuring the requirements of this Agreement have been met.
5. The site restoration referred to in this agreement shall be to the conditions present at the time of permit application and shall include the removal of all construction, the replacement of all vegetative matter, the stabilization of slopes and the restoration of drainage patterns. Restoration must seriously commence within 30 days of the date cited in 4.(a) or at such later time as may be directed by the Chief Building Official.
6. If the Chief Building Official determines that a building has not been removed or a site restored as required by this agreement, the Chief Building Official may cause the building to be removed and the site restored and for this purpose the Chief Building Official, an Inspector and their agents may enter upon the land and into the building governed by this agreement at any reasonable time without a warrant.
7. (a) The owner agrees that the security deposited may be drawn upon as set out in 7(b), 7(c), and 7(d).
- (b) If the Chief Building Official determines that a building has not been removed or a site restored as required by this agreement the letter of credit may be drawn upon in full and the monies used to restore the site as provided for in paragraph 5.
- (c) Should there be full compliance with this Agreement, the Letter of Credit will be returned to the owner at the address provided on the application for building permit.
- (d) The Municipality shall have a lien on the land for the amount spent on the removal of the building and restoration of the site under this agreement and/or subsection 8(6) of the Building Code Act, 1992 and the amount shall have priority lien status as described in section 1 of the Municipal Act, 2001 or any successor legislation.
8. This agreement may be registered against the subject lands and the Municipality is entitled to enforce its provisions against the owner and, subject to the Registry Act and the Land Titles Act, any and all subsequent owners of the subject lands. Upon the issuance of a building permit pursuant to the application referred to in paragraph 2, the Municipality shall provide the owner with a registrable release of this agreement.
- 9.

**IN WITNESS WHEREOF** the Parties hereto have hereunto affixed their signatures  
**SIGNED AND DELIVERED**

**OWNER**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

I have the Authority to bind the Corporation.

**THE CORPORATION OF THE MUNICIPALITY OF WEST ELGIN**

Name: \_\_\_\_\_

Title: CHIEF BUILDING OFFICIAL

**THE CORPORATION OF THE MUNICIPALITY OF WEST ELGIN**

Name: \_\_\_\_\_

Title: CLERK