BY-LAW NO. XX-2020

A BY-LAW TO PROVIDE FOR POWERS OF ENTRY ONTO LAND FOR THE PURPOSE OF CARRYING OUT INSPECTIONS.

WHEREAS Section 436 (1) of the Municipal Act, 2001, S.O. 2001.c. 25 as amended (the 'Act') provides that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection;

AND WHEREAS Sections 435, 437 and 438 of the Act set out additional powers and restrictions in regard to the power of entry;

AND WHEREAS Section 426 of the Act prohibits any person from hindering or obstructing, or attempting to hinder or obstruct, any person exercising a power to perform a duty under this Act or under a by-law passed under this Act;

AND WHEREAS the Corporation of the Town of Carleton Place wishes to pass a By-law allowing for the entry onto land for the purpose of carrying out an inspection to ensure that its By-laws, directions, orders and conditions of a licence are being complied with;

AND WHEREAS this by-law applies to any by-laws of the Town of Carleton Place without power of entry provisions passed pursuant to the Act;

AND WHEREAS the Council of the Corporation of the Town of Carleton Place deems it advisable to pass such a by-law;

NOW THEREFORE the Council of the Corporation of the Town of Carleton Place enacts as follows:

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1.0 DEFINITIONS

1.1 **Council** means the elected municipal officials of the Corporation of the Town of Carleton Place;

1.2 **Land** includes buildings, structures and dwellings;

1.3 **Municipal Act** means the Municipal Act, 2001, S.O. 2001, c. 25, or any preceding Municipal Act;

1.4 **Officer** means a municipal law enforcement officer, a police officer or other person appointed by by-law to enforce the provisions of a by-law or any other individual designated by the Town to enforce this By-law;

1.5 **Occupier** means a person, firm or corporation having control over any portion of the building or property under consideration and includes the persons in the building or property;

1.6 **Town** means the Corporation of the Town of Carleton Place

2.0 APPLICATION

2.1 This by-law applies to all by-laws passed under the authority of the Municipal Act.

3.0 ENTRY AND INSPECTION

3.1 No person shall hinder or obstruct or attempt to hinder or obstruct, any Officer who is exercising a power or performing a duty under this By-law.

3.2 An Officer may at any time, enter onto land for the purpose of carrying out an inspection and in accordance with operating guideline #BL-001 to determine whether or not the following are being complied with:

a) a by-law of the municipality passed under the Municipal Act;

b) a direction or order of the municipality made under the Municipal Act or made under a by-law of the municipality passed pursuant to the Municipal Act;

c) a condition of a licence issued under a by-law of the municipality passed under the Municipal Act;

d) an order made under Section 431 of the Municipal Act;

3.3 Despite Section 3.2, an Officer and any person acting under the Officer's instructions may enter and inspect land at any reasonable time for the purpose of conducting an inspection or taking remedial action related to the following Town by-laws:

a) Fire Route By-law
b) Lawn Watering By-law
c) Pool By-law

3.4 For the purpose of an inspection, an Officer may:

a) require the production for inspection of documents or things relevant to the inspection;

b) inspect and remove documents or things relevant to the inspection for the purpose of making copies and extracts;

c) require information from any person concerning a matter related to the inspection;

d) alone or in conjunction with a person possessing special or expert

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knowledge, make examinations or take tests, samples or photographs necessary for the purpose of inspection

4.0 EMERGENCY INSPECTIONS

4.1 In the event of an emergency or safety issue, the Director of Protective Services or designate may approve an Officer and any person acting under the Officer's instructions to enter and inspect land at any reasonable time for the purpose of conduction an inspection or taking remedial action;

5.0 CONDITIONS GOVERNING POWER OF ENTRY

5.1 Unless otherwise provided in the Municipal Act, in an order under Section 438 of the Municipal Act, or in a warrant under Section 439 of the Municipal Act, the following conditions apply to a power of entry under the by-law:

a) The Officer must on request display or produce proper identification;

b) The Officer may be accompanied by a person under his or her direction; and

c) The municipality shall restore the land to its original condition insofar as is practicable and shall provide compensation for any damages caused by the entry or by anything done on the land except where the entry is under Section 446 of the Municipal Act, or is under Part XI of the Municipal Act, if under that Part, the Treasurer registers a notice of vesting, in the name of the municipality, in respect of the land.

6.0 RESTRICTIONS REGARDING DWELLINGS

6.1 Despite any provision of this by-law, a person exercising a power of entry shall not enter or remain in any room or place actually being used as a dwelling unless:

a) The consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and, if refused, may only be made under the authority of an order issued under Section 438 of the Municipal Act, a warrant issued under Section 439 of the Municipal Act or a warrant under Section 386.3 of the Municipal Act;

b) An order under Section 438 of the Municipal Act is obtained;

c) A warrant issued under Section 439 of the Municipal Act is obtained;

d) A warrant issued under Section 386.3 of the Municipal Act is obtained;

e) The delay necessary to obtain an order under Section 438 of the Municipal

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Act, to obtain a warrant under Section 439 of the Municipal Act or to obtain the consent of the occupier would result in an immediate danger to the health or safety of any person; or

f) The municipality has given the occupier of land notice of its intention to enter as required under Section 435 (2) of the Municipal Act and the entry is authorized under Section 79, 80 or 446 of the Municipal Act.

7.0 PENALTY

7.1 Every person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O., 1990, c. P33.

7.2 Upon conviction, in addition to any other remedy and to any penalty imposed by this by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted.

7.3 Where a person fails to do a matter or thing as directed or required by an Officer or other person pursuant to this by-law or other Town of Carleton Place by-law or the Act, the matter or thing may be done by the Municipality at the person's expense and the associated costs may be added to the tax roll of the person to be collected in the same manner as property taxes.

8.0 SEVERABILITY

8.1 If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in force.

9.0 SHORT TITLE

9.1 This By-law may be referred to as the 'Power of Entry By-law.

READ A FIRST TIME, SECOND TIME AND THIRD TIME AND FINALLY PASSED THIS DAY OF NOVEMBER, 2020.

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Doug Black, Mayor Stacey Blair, Clerk

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