

TOWN OF MELITA
BUILDING BY-LAW NO. 2024-006

BEING A BYLAW of the Town of Melita to provide for the adoption of The Manitoba Building Code, as hereinafter defined, and to establish administrative requirements and procedures for the enforcement of the Code, to be known as the “Building By-Law”;

WHEREAS the Town of Melita is empowered by The Buildings and Mobile Homes Act, as hereinafter defined, to adopt the Code pursuant to bylaw;

AND WHEREAS it is deemed expedient and in the public interest to adopt the Code and establish requirements and procedures for enforcement of the Code as well as all applicable building and safety standards;

NOW THEREFORE the Council of the Town of Melita, duly assembled, enacts as follows:

SECTION 1: TITLE

1.1 This by-law may be cited as the Town of Melita Building By-Law.

SECTION 2: SCOPE & DEFINITION

2.1 Scope:

- 2.1.1 This by-law applies to the whole of the Town of Melita.
- 2.1.2 This by-law applies to administration and enforcement in the design, construction, erection, placement and *occupancy* of new *buildings*, and the *alteration*, reconstruction, demolition, removal, relocation, *occupancy* and change in occupancy of existing *buildings* and any requirements that are necessary to correct *unsafe conditions* in existing *buildings*.
- 2.1.3 The requirements of the *Code* are hereby adopted and shall apply to all work falling within the scope and jurisdiction of this by-law.
- 2.1.4 Any construction or condition that lawfully existed before the effective date of this By-law need not conform to the requirements of this by-law if such construction or condition does not constitute an *unsafe condition* in the opinion of the Town of Melita.

2.2 Definitions:

- 2.2.1 The words and terms in italics in this by-law shall have the meaning prescribed in subsection 2.2.3 herein, and if no definition is provided herein they shall have the meanings as prescribed in the *Code*. Should a word or term be defined in both this by-law and the *Code*, then the definition set forth in this by-law shall govern.
- 2.2.2 Definitions of words and phrases used in this by-law that are not specifically defined in the *Code* or in this subsection shall have the meanings that are commonly assigned to them in the context in which they are used in these requirements, considering the specialized use of terms within the various trades and professions to which the terminology applies.

2.2.3 Words and terms in italics in this by-law shall have the following meanings:

"*Audit*" – means a random review of design or construction work by the *authority having jurisdiction* to ascertain compliance with the *Code* and this by-law.

"*Authority Having Jurisdiction*" – means the Town of Melita, where the context requires, such building inspector or other authority lawfully appointed by the Town of Melita to administer and enforce the provisions of this by-law.

"*Code*" – means the Manitoba Building Code as established, adopted and revised from time to time under Section 3 of the Buildings and Mobile Homes Act.

"*Council*" – means the municipal council of the Town of Melita.

"*Municipality*" – means the Town of Melita and the Authority Having Jurisdiction and, where the context requires, such building inspector or other authority lawfully appointed by the Town of Melita to administer and enforce this by-law;

"*Permit*" – means written permission or written authorization from the *authority having jurisdiction* in respect to matters regulated by this by-law.

"*Person*" – means and includes any individual, corporation partnership, firm, joint venture, syndicate, association or trust, and any other form of entity or organization.

"*RTM*" – means ready to move houses being houses or *buildings* constructed in one location and moved to a different location.

"*Valuation*" – shall mean the total monetary worth of all construction or work, including all painting, papering, roofing, electrical work, plumbing, permanent or fixed equipment, including any permanent heating, elevator equipment or fire sprinkler equipment, and all labour, materials and other devices entering into and necessary to the prosecution of the work in its completed form. No portion of any *building* including, mechanical, electrical and plumbing work, shall be excluded from the valuation for a *permit*.

SECTION 3: GENERAL

3.1 Application Generally:

3.1.1 This by-law applies to the design, construction, erection, placement and *occupancy* of new *buildings* and the *alteration*, reconstruction, demolition, removal, relocation, *occupancy* and change in *occupancy* of existing *buildings*.

3.2 Limited Application to Existing Buildings:

- 3.2.1 Any construction or condition that lawfully existed before the effective date of this by-law need not conform to the requirements of this by-law if such construction or condition does not constitute an unsafe condition in the opinion of the *Municipality*.
- 3.2.2 When a *building* or any part of it is altered or repaired, the *Code* applies to the parts of the *building* altered or repaired except that where in the opinion of the *Municipality*, the *alteration* will affect the degree of safety of the existing *building*, the existing *building* shall be improved as may be required by the *Municipality*.
- 3.2.3 The number of storeys of an existing *building* or structure shall not be increased unless the entire *building* or structure conforms with the requirement of the *Code*.
- 3.2.4 The requirements of this by-law apply where the whole or any part of a *building* is relocated either within or into the area of jurisdiction of the *Municipality*.
- 3.2.5 When the whole or any part of a *building* is demolished, the requirements of this by-law apply to the work involved in the demolition and to the work required to any parts remaining after demolition to the extent that deficiencies occurring or remaining after demolition require correction.
- 3.2.6 When a *building* is damaged by fire, earthquake or other cause, the *Code*, the requirements of this by-law and the appropriate regulations under the Fire Prevention Act, and the Manitoba Fire Code, apply to the work necessary to reconstruct damaged portions of the *building*.
- 3.2.7 When an *unsafe condition* exists in or about a *building*, the *Code*, the requirements of this by-law and the appropriate regulations in the Fire Prevention Act, and the Manitoba Fire Code, shall apply to the work necessary to correct the *unsafe condition*.
- 3.2.8 When the *occupancy* of a *building* or any part of it is changed, the requirements of this by-law apply to all parts of the *building* effected by the change.

3.3 Exemptions:

- 3.3.1 These requirements do not apply to
 - (a) sewage, water, electrical, telephone, rail or similar systems located on a street or a public transit right of way.
 - (b) public utility towers or poles, television and radio or other communication aerials and towers, except for loads resulting from those located on or attached to *buildings*.
 - (c) flood control and hydro electric dams and structures.

- (d) mechanical or other equipment and appliances not regulated in this by-law.

3.4 Prohibitions:

- 3.4.1 Any person who fails to comply with any order or notice issued by the *Municipality*, or who allows a violation of the requirements of this by-law or of the *Code* to occur or to continue, contravenes the provisions of this by-law.
- 3.4.2 No person shall undertake any work or authorize or allow work to proceed on a project for which a *permit* is required unless a valid *permit* exists for the work to be done.
- 3.4.3 No person shall deviate from the accepted plans and specifications forming part of the *permit*, or omit or fail to complete, prior to occupancy, work required by the said accepted plans and specifications, without first having obtained the acceptance of the *Municipality* to allow such deviation except for minor changes to accepted plans and specifications which, when completed would not cause a violation of the *Code* or other by-laws.
- 3.4.4 Where an *occupancy permit* is required by Section 4.2.3 herein, no person shall occupy or allow the occupancy of any *building*, or part thereof, or change the occupancy, unless and until an *occupancy permit* has been issued by *Municipality*.
- 3.4.5 No person shall knowingly submit false or misleading information to the *Municipality* concerning any matter relating to this by-law.
- 3.4.6 No person shall excavate or undertake work on, over or under public property, or erect or place any construction or work or store any materials thereon without receiving prior approval in writing from the appropriate government authority.
- 3.4.7 No person shall allow the ground elevations or the property boundaries of a *building* lot to be changed so as to place a *building*, or part of it, in contravention of the requirements of this by-law, unless the *building*, or part of it, is so altered, after obtaining the necessary *permit*, such that no contravention will occur because of the change of the property boundary or grades.
- 3.4.8 No person shall allow the ground elevation of a *building* lot or site to be changed so as to cause surface water to flow or drain towards a *building* on the same lot or site, or onto an adjacent lot or *building* site.
- 3.4.9 No person shall restrict or intend to restrict surface water to flow or drain its natural course.

3.5 Mobile Homes and RTM's

- 3.5.1 Mobile homes and/or RTM's shall comply with the requirements of the *Code*.
- 3.5.2 The *Municipality* may require any or all of the following in respect to a mobile home or RTM sought to be located within the area of jurisdiction of the *Municipality*:
- (a) the submission of a complete set of plans and specifications;
 - (b) the seal of an *Engineer* licensed in the Province of Manitoba in respect to all building components requiring professional certification;
 - (c) submission of copies of any or all permits taken out for the mobile home or RTM in the location of its construction together with a copy of any or all inspection reports;
 - (d) such inspections or certifications as the *Municipality* may deem necessary in order to ensure compliance with the *Code* and this by-law.

SECTION 4: PERMITS

4.1 Application

- 4.1.1 Except as otherwise allowed by the *Municipality*, every application for a *permit* shall be in the form prescribed by the *Municipality* and shall:
- (a) identify and describe in detail the work and occupancy to be covered by the *permit* for which the application is 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) state the *valuation* of the proposed work,
 - (d) state the names, addresses and telephone numbers of the owners, *architect*, *professional engineer* or other *designer*, *constructor* and any inspection or testing agency engaged to monitor the work or part of the work.
 - (e) include such additional information as maybe required by the *Municipality*.
- 4.1.2 The *Municipality* may deny any application for a *permit* that is deemed incomplete. If the *Municipality* accepts an incomplete application, the *Municipality* shall provide a deadline for submitting any remaining application requirements. Failure to meet this deadline will result in deemed abandonment of the application.
- 4.1.3 All fees for *permits* shall be paid prior to any *permit* being issued and shall be in accordance with the Town of Melita's Fee and Charges By-Law, as amended from time to time.
- 4.1.4 A *permit* shall expire and the right of an owner under the *permit* shall end if;
- (a) the work authorized by the *permit* is not commenced within **six months** from the date of issue of the *permit* and actively carried out after that, or
 - (b) the work authorized under the *permit* is suspended for **six months** unless otherwise extended by the *Municipality*.

- 4.1.5 Any revision to the original application described in article 4.1.1 shall be made in the same manner as for the original *permit*.
- 4.1.6 Applications for *permits* may be filed, and *permits* may be issued to an *owner*, or to a *constructor* or other properly authorized agent of the *owner*.
- 4.1.7 No *permit* shall be transferred to another person without written consent of the *owner* or authorized agent.

4.2 Building Permits:

4.2.1 Except as permitted in Article 4.2.2 herein, unless a *building permit* has first been obtained from the *Municipality*, no *person* shall commence or cause to be commenced:

- (a) the location, placement, erection or construction of any *building* or structure or portion thereof;
- (b) the addition, extension, improvement, *alteration* or conversion of any *building* or structure, or portion thereof;
- (c) the repair, rehabilitation, or *renovation* of any *building* or structure, or portion thereof;
- (d) underpinning;
- (e) the relocation or removal of any *building* or structure, or portion thereof;
- (f) the excavation of any land for any purpose of erecting or location on or above it, any *building* or structure;
- (g) the installation, construction, repair, renewal, alteration or extension of a mechanical system;
- (h) any permanent private or semi-private swimming pools (in or above ground), hot tubs and similar structures with a minimum depth of 2 feet.

4.2.2 A *building permit* is not required for:

- (a) patching, painting or decorating;
- (b) replacement of stucco, siding or shingles with the comparable material;
- (c) replacement of doors or windows when the opening is not altered;
- (d) replacement of open landing and stairs;
- (e) installation of cabinets and shelves;
- (f) a detached accessory storage building not greater than 100 square feet in *building* area;
- (g) an open and unenclosed detached deck with a height from grade of less than 2 feet to the top of the decking;
- (h) an open and unenclosed attached or detached deck no greater than 50 square feet in floor area;
- (i) non-structural alterations or repairs where the value of such work is less than five thousand dollars (\$5,000.00)

4.2.3 Notwithstanding that a *building permit* is not required for the work described in Article 4.2.2., such work shall comply with the *Code* and the provisions of this or other applicable by-laws and the work shall not place the *building* or

structure in contravention or further contravention of the *Code* or this or any other by-law.

4.3 Plumbing Permits:

4.3.1 Except as provided in sentence 4.3.2, no person shall construct, extend, alter, renew or repair or make a connection to a plumbing system unless a *permit* to do so has been obtained.

4.3.2 A plumbing *permit* is not required when a valve, faucet, fixture or service water heater is repaired or replaced, a stoppage cleared or a leak repaired, if no change to the piping is required.

4.3.3 Non-Residential (except for multi-family/part 3 residential) projects require a provincially licensed journeyman plumber. The employed plumber's registration number is required to be submitted as part of the application permit.

4.4 Occupancy Permits:

4.4.1 Except as otherwise permitted herein, no *person* shall occupy or use or permit the *occupancy* or use or change the *occupancy* or use of any *building* or part thereof, for which an *occupancy* permit is required hereunder.

4.4.2 An *Occupancy Permit* is required from the *Municipality* for:

- (a) the *occupancy* of any new *building* or structure or portion thereof except a single-family dwelling, a two-family dwelling or a multi-family dwelling without shared exit facilities;
- (b) the *occupancy* of any existing *building* or structure where an *alteration* is made thereto, except a single-family dwelling, a two-family dwelling or a multi-family dwelling without shared exit facilities;
- (c) for a change from one *Major Occupancy* group to another or a change from one division to another within a *Major Occupancy* group in any existing building or structure, or part thereof;
- (d) for a change from one use to another within the same division in a *Major Occupancy* group which results in an increase in the occupant load;
- (e) for a change or addition of an *occupancy* classification of a suite in a *building*; and
- (f) for a change from a use not previously authorized to a new use.

4.4.3 The *Municipality* may issue an Interim *Occupancy Permit* for a partial use of a *building* or structure subject to any conditions imposed by the *Municipality*.

4.4.4 No change shall be made in the type of *occupancy* or use of any *building* or structure, which would place the *building* or structure in a different occupancy group, or divisions within a group, unless such *building* or structure is made to comply with the requirements of the *Code* for that occupancy group, or division within a group.

- 4.4.5 The *Municipality* may issue a *Temporary Occupancy Permit* for the use of a *building* or structure approved as a temporary *building* or structure.
- 4.4.6 A *Temporary Occupancy Permit* shall be for a period not more than six months, but before the expiration of such period, the *Temporary Occupancy Permit* may be renewed by the *Municipality* for two further six months periods.
- 4.4.7 Notwithstanding apparent compliance with this by-law, the *Municipality* may refuse to issue an *Occupancy Permit* if the *building*, structure or proposed use is to the *Municipality's* knowledge in violation of the Town of Melita Zoning By-law, or any other by-law of the *Municipality*.
- 4.4.8 An applicant for an *Occupancy Permit* shall supply all information requested by the *Municipality* to show compliance with the by-law and any other relevant by-laws of the *Municipality*.
- 4.4.9 The granting of an *occupancy permit* by the *Municipality* shall not in any way relieve the *owner* of a *building* from full responsibility for carrying out the work or having it carried out in accordance with these requirements, including ensuring that the *occupancy* of the *building*, or any part of it, is in accordance with the terms of the *permit*.
- 4.4.10 The required *Occupancy Permit* shall be displayed and maintained in a legible condition by the *owner* or his agent in a location acceptable to the *Municipality*.

4.5 Demolition Permits:

- 4.5.1 No person shall commence or cause to be commenced the demolition of any *building* or structure, or portion thereof, unless a *Demolition Permit* has first been obtained from the *Municipality*.
- 4.5.2 The demolition of a *building* or structure shall be subject to the requirements of the *Code*, including, but not limited to;
- (a) maintaining site safety as per the *Codes*;
 - (b) complying with all Municipal by-laws, regulations, and procedures;
 - (c) disconnecting and securing all utilities; and
 - (d) removing old foundation, leveling the ground, and making the site clean, sanitary, and safe as to the satisfaction of the *Municipality*.
- 4.5.3 When the whole or any part of a *building* is demolished, the requirements of this by-law apply to the work involved in the demolition and to the work required to any parts remaining after demolition to the extent that deficiencies occurring or remaining after demolition require correction.
- 4.5.4 Should a *building* or structure be relocated within the *Municipality*, the *owner* is responsible for obtaining any and all necessary *permits* from the *Municipality* with regards to placing the *building* or structure at the new location.

SECTION 5: DUTIES, RESPONSIBILITIES & POWERS

5.1 Duties and Responsibilities of the Owner:

- 5.1.1 Every *owner* shall allow the *Municipality* to enter any *building* or premises at any reasonable time for the purpose of administering and enforcing the requirements of this by-law.
- 5.1.2 Every *owner* shall obtain all *permits* or approvals required in connection with proposed work, prior to commencing the work to which they relate.
- 5.1.3 Every *owner* shall ensure that the plans and specifications on which the issue of any *permit* was based are available continuously at site of the work for *audit* or *inspection* during working hours by the *Municipality*, and that the *Permit*, or true copy thereof, is posted conspicuously on the site during the entire execution of the work.
- 5.1.4 Every *owner* shall before commencing any work, give notice in writing to the *Municipality*, prior to commencing the work, listing;
- (a) the name, address and telephone number of
 - (i) the *constructor* or other person in charge of the work;
 - (ii) the person reviewing the work; and
 - (iii) any *inspection* or testing agency engaged to monitor the work or part of the work.
 - (b) any change in or termination or employment of such persons during the course of the construction immediately that such change or termination occurs.
- 5.1.5 Every *owner* shall give sufficient notice to the *Municipality*;
- (a) of intent to begin work that the *Municipality* has directed may be subject to *inspection* during construction,
 - (b) of intent to cover work that the *Municipality* has directed may be subject to *inspection* during construction; and
 - (c) when work has been completed and before *occupancy*.
- 5.1.6 Every *owner* shall give notice in writing to the *Municipality*;
- (a) immediately upon any change in ownership or change in the address of the *owner* occurs prior to the issuance of the *Occupancy Permit*;
 - (b) prior to occupying any portion of the *building* if it is to be occupied in stages; and
 - (c) of any such other notice as may be required by the *Municipality*.
- 5.1.7 Every *owner* shall give such other notice to the *Municipality* as may be required by the provisions of the *Code* or this by-law.
- 5.1.8 Every *owner* shall be responsible for scheduling all *permit inspections*, as required by the *Municipality*.

- 5.1.9 Every *owner* shall make, or have made at their own expense, the tests or *inspections* necessary to prove compliance with these requirements and shall promptly provide a copy of all such test or *inspection* reports to the *Municipality*.
- 5.1.10 Every *owner* shall provide an up-to-date survey of the *building* site when and as required by the *Municipality*.
- 5.1.11 When required by the *Municipality*, every *owner* shall uncover and re-cover at their own expense any work that has been covered contrary to an order issued by the above authority.
- 5.1.12 Every *owner* is responsible for the cost of repair of any damage to public property or works located thereon that may occur as a result of undertaking work for which a *building permit* was or was not required.
- 5.1.13 Except in one and two family dwellings and their accessory *buildings*, every *owner* shall, where required, obtain an *occupancy permit* from the *Municipality* before any;
- (a) *occupancy* of a *building* or part of it after construction, partial demolition or *alteration* of that *building*, or
 - (b) change in the *occupancy* of any *building* or part of it.
- 5.1.14 Should *occupancy* occur before the completion of any work being undertaken, every *owner* shall ensure that no *unsafe condition* exists or will exist because of the work being undertaken or not completed.
- 5.1.15 When a *building* or part of it is in an *unsafe condition*, the *owner* shall immediately take all necessary action to put the *building* in a safe condition.
- 5.1.16 Every *owner* who undertakes to construct or have constructed a *building* which;
- (a) has structural components falling within the scope of Part 4 of the *Code*,
 - (b) has structural components specifically requiring a *professional engineer* design in accordance with the *Code*, or
 - (c) requires the use of *firewalls* according to the *Code*,
- shall ensure that an *architect*, *professional engineer* or both are retained to undertake professional design and inspection.
- 5.1.17 Professional design and inspection referred to in sentence 5.1.17 requires that an *architect*, *professional engineer* or both be responsible;
- (a) for the design and that all appropriate plans, specifications and related documents meet the requirements of the *Code*, and the requirements of applicable acts, regulations and by-laws, and bear the seal or stamp of the registered professional, and
 - (b) for *inspection* of construction to ensure compliance with the design and the requirements of applicable acts, regulations and by-laws.

5.1.18 If the engagement of an *architect* or *professional engineer* pursuant to Section 5.1.17 and 5.1.18 is terminated during the construction period, work shall be discontinued until a replacement has been appointed.

5.1.19 The requirements of Section 5.1.17, 5.1.18, and 5.1.19 shall apply to a change in *occupancy*, an *alteration*, addition, reconstruction or the relocation of a building where and as required by the *Municipality*.

5.1.20 Where the dimensions of a structural component are not provided in Part 9 of the *Code* for use in a *building* within the scope of that part, and such dimensions are to be determined on the basis of calculation, testing or other means of evaluation, the *owner* shall retain the services of an *architect* or *professional engineer*.

5.1.21 Every *owner* who undertakes to construct, alter, reconstruct, demolish, remove or relocate a *building* shall provide supervision and coordination of all work and trades.

5.1.22 The issuance of a *permit* by the *Municipality* does not relieve the *owner* of the responsibility for carrying out the work or having work carried out in accordance with the *Code* and this by-law.

5.1.23 Where a stop work order has been issued by the *Municipality*, the *owner* shall stop work immediately, except for the installation or erection of covers or guards to ensure the site is maintained in a safe condition.

5.1.24 Every *owner* shall ensure that all materials, systems, equipment, and the like used in the construction, *alteration*, reconstruction or renovation of a *building* meet the requirements of applicable acts, regulations and by-laws for the work undertaken.

5.2 Duties and Responsibilities of the Constructor:

5.2.1 Every *Constructor* shall ensure that all construction safety requirements of the *Code* are complied with.

5.2.2 Every *Constructor* shall ensure that all work carried out in accordance with this by-law, the *Code* and all provisions as described on the *permit* and accepted drawings and specifications.

5.2.3 Every *Constructor*, when required by the *Municipality*, provide a statutory declaration that their work was completed in accordance with the accepted plans and specifications, and the requirements of the *Codes* and this by-law.

5.2.4 Every *Constructor* is responsible for ensuring that no excavation or other work is undertaken on public property, and that no *building* is erected or materials stored in whole or in part thereon without approval first having been obtained in writing from the Council.

5.2.5 Every *Constructor* shall give notice to the *Municipality*;

- (a) of the intent to cover work that has been ordered to be inspected prior to covering;
- (b) when the work scheduled to be inspected is not ready for inspection; and
- (c) when work has been completed so that a final inspection can be made.

5.2.6 Every *Constructor* is responsible jointly and severally with the *owner* for work actually taken.

5.3 Duties and Responsibilities of the Municipality:

- 5.3.1 The *Municipality* shall administer this by-law and shall have the powers of enforcement more particularly set out in Article 5.5 herein.
- 5.3.2 The *Municipality* shall keep copies of all applications received, *permits* and orders issued, *inspections* and tests made, and of all papers and documents connected with the administration of the *Code* and this by-law for such time as required by the provisions of *The Municipal Act*.
- 5.3.3 Where the *Municipality* seeks to enforce any of the powers set out in Article 5.5.2 herein, the *Municipality* shall issue in writing such notices or orders as may be necessary to inform the *owner* of the contravention of the *Code* or this by-law.
- 5.3.4 The *Municipality* shall provide, when requested to do so, all reasons for refusal to grant a *permit*.
- 5.3.5 The *Municipality* shall answer such relevant questions as may be reasonable with respect to the provisions of the *Code* or this by-law when required to do so, but shall refrain from assisting with design or form acting in the capacity of design professionals.

5.4 Duties and Responsibilities of the Design Professional:

- 5.4.1 When a *designer* is retained, the *designer* shall ensure that the design of the *building* conforms to the *Code*.
- 5.4.2 When a *professional engineer* or *architect* is required by the *Code* or the requirements of this by-law, they shall do *inspections* to ensure that the construction conforms to the design and the *Code*.
- 5.4.3 Every *designer* is required to submit to the *Municipality*:
 - (a) all information needed for review of the design;
 - (b) any changes to the design for which a permit has or may be issued;
 - (c) copies of all *inspection* reports for *inspections* done by the *designer* and others, and
 - (d) any other documentation or certification required by the *Municipality*.
- 5.4.4 Every *designer* shall ensure that all materials, systems, equipment or related matter specified for the construction, *alteration*, reconstruction or

renovation of a *building* meet the requirements of the *Code* and the requirements of applicable Acts, regulations and by-laws for the work to be undertaken.

5.4.5 If the responsible *architect* and/or *professional engineer* withdraws from the project, they shall immediately advise the *Municipality*.

5.4.6 Prior to the issuance of an *occupancy permit*, the responsible *architect* and/or *professional engineer* shall, where required by the *Municipality*, submit a certificate stating:

"The construction has been reviewed under my supervision in accordance with recognized professional inspection standards, and that to the best of my/our knowledge the structure was constructed in accordance with the accepted drawings and specifications and requirements of the applicable by-laws".

5.4.7 The responsible *architect* and/or *professional engineer* shall sign, date and seal all of the documents referred to in this article.

5.5 Powers of the Municipality:

5.5.1 The *Municipality* may enter any *building* or premises at any reasonable time to *audit* for compliance with the *Code* or these requirements, or to determine if an *unsafe condition* exists.

5.5.2 The *Municipality* is empowered to issue orders for:

- (a) an *owner* or authorized agent to hold at specific stages of construction in order to facilitate an *audit* or *inspection*;
- (b) a person who contravenes these requirements to comply with them within the time period that may be specified;
- (c) work to stop on the *building* or any part of it if such work is proceeding in contravention of these requirements, or if there is deemed to be an *unsafe condition*;
- (d) the removal of any unauthorized encroachment on public property;
- (e) the removal of any *building* or part of it constructed in contravention of these requirements;
- (f) the cessation of any *occupancy* in contravention of these requirements;
- (g) the cessation of any *occupancy* if any *unsafe condition* exists because of work being undertaken or not completed, and
- (h) correction of any *unsafe condition*.

5.5.3 The *Municipality* may direct that tests of materials, equipment, devices, construction methods, structural assemblies or *foundation* conditions be made, or sufficient evidence or proof be submitted at the expense of the *owner*, where such evidence or proof is necessary to determine whether the material, equipment, device, construction or *foundation* condition meets these requirements.

- 5.5.4 The *Municipality*, may require an *owner* to submit, in addition to the information required in Article 4.1.1, an up-to-date plan or survey, prepared by a registered land surveyor, *architect* or *professional engineer*, as is appropriate to the work, and which shall contain sufficient information regarding the site and the location of any *building*;
- (a) to establish before construction begins that all the requirements related to this information will be complied with; and
 - (b) to verify that, upon completion of the work, all such requirements have been complied with.
- 5.5.5 The *Municipality* may ask for any other documentation or tests deemed necessary at the expense of the *owner*.
- 5.5.6 Notwithstanding any other provisions herein, wherein the opinion of the *Municipality* the site conditions, the size or complexity of a *building*, part of a *building* or *building* component warrant, or for any other reason, the *Municipality*, may require that the *owner* have the following done at their expense:
- (a) the appropriate plans, specifications and related documents be reviewed by and bear the seal or stamp of an *architect* or *professional engineer*, and
 - (b) the work be inspected during construction by the *architect* or *professional engineer* responsible for the work.
- 5.5.7 The *Municipality* may issue a *building permit* at the risk of the *owner* with, if necessary, conditions to ensure compliance with these requirements and any other applicable regulations, to excavate or to construct a portion of a *building* before all the plans of the project have been submitted to the *Municipality*.
- 5.5.8 The *Municipality* may refuse to issue any *permit*:
- (a) whenever information submitted is inadequate to determine compliance with the provisions of these requirements,
 - (b) whenever incorrect information is found to have been submitted,
 - (c) that would authorize any *building* work or *occupancy* that would not be permitted by these requirements, or
 - (d) that would be prohibited by any other Act, regulation or by-law.
- 5.5.9 The *Municipality* may revoke a *permit*, at their discretion, by written notice to the *permit* holder if;
- (a) there is contravention of any condition under which the *permit* was issued,
 - (b) the *permit* was issued in error, or
 - (c) the *permit* was issued on the basis of incorrect information,
 - (d) the work is being done contrary to the terms of the *permit*.
 - (e) the work pursuant to the *permit* is creating an unsafe environment or is adversely impacting adjacent property or municipal property.

5.5.10 The *Municipality* may place a *valuation* on the cost of the work for the purpose of determining *permit* fees. Such *valuation* shall take precedence over any *valuation* provided by the *owner*.

5.5.11 The *Municipality* may issue an *occupancy permit*, subject to compliance with provisions to safeguard persons in or about the premises, to allow the *occupancy* of a *building* or part of it for the accepted use, before commencement or completion of the construction or demolition work.

5.5.12 When any *building*, construction or excavation or part of it is in an *unsafe condition*, as a result of being open or unguarded, or because of danger from fire or risk of accident because of its ruinous or dilapidated state, faulty construction, abandonment or other, and when due notice to correct such condition has not been complied with, the *Municipality* may;

- (a) demolish, remove or make safe such *building*, construction excavation or part of it at the expense of the *owner* and may recover such expense in like manner as municipal taxes, and
- (b) take such other measures as he may consider necessary to protect the public.

5.5.13 Notwithstanding any other provisions herein, when, in the opinion of the *Municipality*, immediate measures need to be taken to avoid an imminent danger, the *Municipality* may take such action as is appropriate, without notice and at the expense of the *owner*.

5.5.14 The *Municipality* may withhold issuing an *occupancy permit* on completion of the *building* or part of the *building*, until the *owner* has provided letters to certify compliance with the *Code*, these requirements and the requirements of applicable Acts, regulations or by-laws.

5.5.15 The *Municipality* may issue to the *owner* an order or notice in writing to correct any *unsafe conditions* observed in any *building*.

5.5.16 Should the measurements of a site plan submitted as part of an application for *permit* appear to be inaccurate, the *Municipality* may rely on other property information to verify the accuracy of the site plan. Such measurements shall take precedence over any measurements provided by the *owner*. The *Municipality* shall not be held liable for damages or additional processes required as a result of accepting the applicant's site plan measurements.

SECTION 6: OFFENSES AND PENALTIES

6.1 If any *building* or structure or part thereof or addition there to is constructed, erected, placed, altered, repaired, renovated or reconstructed in contravention of any provision of this by-law, the *Municipality* may take any measures as permitted pursuant to this by-law, *The Buildings and Mobile Homes Act*, *The Municipal Act*, *The Planning Act* or any other statute or applicable municipal by-law for the purpose of ensuring compliance with this by-law including, but not limited to:

- (a) entering the *building* or structure,
- (b) ordering production of documents, tests, certificates, etc. relating to the *building* or land,
- (c) taking material samples,
- (d) issuing notices to *owners* that order action within a prescribed time,
- (e) eliminating unsafe conditions,
- (f) completing actions, upon an *owner's* non-compliance with an order, adding the expenses incurred to the tax payable on the property,
- (g) obtaining restraining orders,
- (h) stop work orders.

6.2 Any person who contravenes or disobeys, or refuses or neglects to obey;

- (a) any provision of the *Code* or this by-law or any provision of any other by-law that, by this by-law, is made applicable; or
- (b) any order or decision of the Council under Section 7 herein;

for which no other penalty is herein provided is guilty of any offense and liable, on summary conviction, to a fine not exceeding five thousand dollars (\$5,000.00), or in the case of an individual, to imprisonment for a term not exceeding six months or to both such fine and such an imprisonment.

6.3 Where a corporation commits an offense against the *Code* or this by-law, each Director or Officer of the corporation who authorized, consented to, connived at, or knowingly permitted or acquiesced in, the doing of the act that constitutes the offense, is likewise guilty of the offenses and liable, on summary conviction, to the penalty for which provision is made in Subsection 6.2 aforesaid.

6.4 Any person who contravenes a provision of a By-Law, *The Municipal Act*, *The Planning Act* or any other Act the *Municipality* is authorized to enforce, is liable to pay the charges and costs (including legal fees related to the enforcement) related to enforcing the by-law.

6.5 Where the contravention, refusal, neglect, omission, or failure, continues for more than one day, the person is guilty of a separate offense for each day it continues.

SECTION 7: APPEAL

7.1 Any person aggrieved by any decision or order of the *Municipality* as to the issuance of *permits*, the prevention of construction or *occupancy* of *buildings*, the demolition or removal of buildings, or structures, or any other matter herein may, within fifteen (15) days from the date of the decision, appeal to the *Council*. All decisions or orders remain in effect during the appeal process.

7.2 *Council* may hear the appeal as a committee of the whole or by subcommittee especially established for this purpose.

7.3 Upon the hearing of an appeal, the *Council* may:

- (a) uphold, rescind, suspend or modify any decision or order given by the *Municipality*;
- (b) extend the time within which compliance with the decision or order shall be made; or
- (c) make such other decision or order as in the circumstances of each case it deems just;

and the decision or order of the *Council* upon being communicated to the appellant, shall stand in place of the decision or order against which appeal is made, and any failure to comply with the decision or order is an offense.

SECTION 8: REPEAL

- 8.1 By-law No. 1665 and Amending By-Law No. 1722 thereto, be and the same are hereby repealed.
- 8.2 The repeal of the by-laws in the last preceding section mentioned shall not revive any by-law or any provision of any by-law repealed by them, nor shall the said repeal prevent the effect of any saving clause in the said by-laws or the application of any of the said by-laws or any other by-law or provision of law formerly in force to any transaction matter or thing anterior to the said repeal to which they would otherwise apply.
- 8.3 And the repeal of the said by-laws should not affect:
 - (a) any penalty, forfeiture or liability incurred before the time of such repeal, or any proceedings for enforcing the same, had, done, completed or pending at the time of such repeal
 - (b) any action, suit, judgment, decree, certificate, execution, process, order, rule or any proceeding, matter or thing whatever, respecting the same had, done, made, entered, granted, completed, pending, existing or in force at the time of such repeal;
 - (c) any act, deed, right, title, interest, grant, assurance, registry, rule, regulation, contract, lien, charge, matter or thing had, done, made, acquired, established or existing at the time of such repeal;
 - (d) any office, appointment, commission, salary, allowance, security, duty or any matter or thing appertaining thereto at the time of such repeal
 - (e) any bond, note, debenture, debt, or other obligation made, executed, or entered into by the Corporation at the time of such repeal;
 - (f) shall and such repeal defeat, disturb, invalidate, or prejudicially affect any other matter or thing whatsoever had, done, completed, existing or pending at the time of such repeal.

DONE AND PASSED by the Council of the Town of Melita, in open session duly assembled this _____, day of _____, 2024.

TOWN OF MELITA

Bill Holden, Mayor

Breigh Crepeele, CAO

Read a first time this _____ day of _____, 2024.
Read a second time this _____ day of _____, 2024.
Read a third time this _____ day of _____, 2024.