

THE CORPORATION OF THE TOWNSHIP OF EAST LUTHER GRAND VALLEY  
BY-LAW NUMBER 2008-\_\_\_\_\_

Being a by-law providing powers of entry for the purpose of inspection.

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WHEREAS Section 436 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality has the power to pass by-laws authorizing the municipality to enter land at reasonable times for the purpose of conducting inspections;

AND WHEREAS Section 438 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality has the power to pass by-laws providing that the municipality may undertake an inspection pursuant to an order issued under section 438;

AND WHEREAS Sections 435 and 437 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, set out certain additional powers and restrictions in regard the power of entry;

AND WHEREAS the Corporation of the Township of East Luther Grand Valley wishes to pass a By-law allowing for the entry on 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;

NOW THEREFORE the Council of the Corporation of the Township of East Luther Grand Valley enacts as follows:

**Part I**        **Definitions**

1. In this By-law:
  - a. “Building” means any structure consisting of a roof supported by walls or columns which is used or intended to be used for the shelter, accommodation or enclosure of persons, animals, goods, chattels or equipment and includes a carport;
  - b. “By-law” means a by-law passed by Council pursuant to the Municipal Act;
  - c. “Township” means the Corporation of the Township of East Luther Grand Valley;
  - d. “Council” means the Township’s Council;
  - e. “Dwelling” means any room, place or part of a Building actually being used as a dwelling by an individual;

- f. "Municipal Act" means the *Municipal Act, 2001*, S.O. 2001, c.25, as amended from time to time; and
- g. "Officer" means an employee, officer or agent of the Township or a member of the Ontario Provincial Police force.

**Part II**      **Power of Entry**

- 2. Subject to section 3, an Officer may enter onto land and into a Building at any reasonable time for the purpose of carrying out an inspection to determine whether or not any of the following are being complied with;
  - a. A By-law;
  - b. A direction or order of the Township made under the Municipal Act or made under a By-law;
  - c. A condition of a licence issued under a By-law; or
  - d. An order made under section 431 of the Municipal Act.
  
- 3. An Officer exercising a power of entry 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 or extracts;
  - c. Require information from any person concerning a matter related to the inspection; and
  - d. Alone or in conjunction with a person who, in the Officer's opinion, possesses special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
  
- 4. A person is guilty of an offence in each of the following circumstances:
  - a. The person refuses or neglects to produce for inspection any document or thing required by an Officer pursuant to paragraph 3(a); or

- b. The person refuses or neglects to provide information required by an Officer pursuant to paragraph 3(c).

**Part III**      **Restriction relating to Dwellings**

- 5. An officer exercising a power of entry under this By-law shall not enter or remain in a Dwelling unless:
  - a. The consent of the occupier is obtained, the occupier having been first informed that the right of entry may be refused and, if refused, may only be made under authority of an order issued under section 438 of the Municipal Act or a warrant issued under section 439 of the Municipal Act;
  - b. An order issued under section 438 of the Municipal Act is obtained;
  - c. A warrant issued under section 439 of the Municipal Act is obtained; or
  - d. The delay necessary to obtain an order under section 438 of the Municipal Act or a warrant under section 439 of the Municipal Act or to obtain the consent of the occupier would result in the immediate danger to the health and safety of any person.

**Part IV**      **Administration**

- 6. Nothing in this By-law shall limit any other statutory or common law right or power of the Township or any Officer to enter on land

Read a first, second and third time and finally passed the \_\_\_\_\_ day of \_\_\_\_\_  
2008.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk