

THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. XXX-24

**A BY-LAW TO PROVIDE FOR SITE PLAN CONTROL AS A
CONDITION OF DEVELOPMENT AND TO REPEAL AND REPLACE
BY-LAW 3622-02 AND ALL AMENDMENTS THERETO.**

WHEREAS Section 41 of the *Planning Act, R.S.O., 1990, Chapter P. 13*, as amended, provides that where in an Official Plan an area is shown or described as a site plan control area, the Council of a Municipality may by by-law designate the whole or any part of such area as a Site Plan Control Area;

AND WHEREAS the Council of the Corporation of the Town of Niagara-on-the-Lake deems it necessary to repeal the existing Site Plan Control By-law No. 3622-02, including all Amendments thereto, and replace it with a new Site Plan Control By-law contained herein;

AND WHEREAS Subsection 41 (4.0.1) of the *Planning Act, R.S.O 1990, Ch. P. 13*, as amended, requires that where a Council that passes a by-law under Subsection 41 (2) shall appoint an officer, employee or agent of the municipality as an authorized person for the purposes of Subsection 41 (4);

AND WHEREAS the Town may require the approval of certain plans and drawings as a condition of Development in the Town and may require that an owner enter into a Site Plan Agreement with the Town, in accordance with Section 41 of the *Planning Act, R.S.O., 1990, Chapter P. 13*, as amended;

AND WHEREAS an exception has been added to apply to the definition of "Development" in Subsection 41 (1) of the *Planning Act, R.S.O 1990, Ch. P. 13*, as amended, by Bill 23, the *More Homes Built Faster Act, 2022*, to exclude development of ten (10) residential units or less, except where the parcel of land is located within a prescribed area pursuant to *Ontario Regulation 254/23* under the *Planning Act, R.S.O 1990, Ch. P. 13*, as amended.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE
TOWN OF NIAGARA-ON-THE-LAKE ENACTS AS FOLLOWS:**

1. That By-law No. 3622-02, By-law 3622A-06, By-law 3622B-12, and By-law 3622C-14 are hereby repealed in their entirety and replaced with this By-law.

2. That for the purposes of this By-law, the following definitions shall apply:
- a) "Planning Act" means the *Planning Act, R.S.O 1990, Ch. P. 13*, as amended.
 - b) "Development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers as defined in subsection 164 (4) of the *Municipal Act* or of sites for the location of three or more mobile homes as defined in subsection 46 (1) of the *Planning Act*, or of sites for the construction, erection or location of three or more land lease community homes as defined in subsection 46 (1) of the *Planning Act*, as amended. Exceptions set out in the *Planning Act* apply to this definition.
 - c) "Town" means the Corporation of the Town of Niagara-on-the-Lake.
 - d) "Municipality" means the Corporation of the Town of Niagara-on-the-Lake or the Regional Municipality of Niagara.
 - e) "Owner" means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the property Registry or Land Titles Office.
 - f) "Council" means the Council of the Corporation of the Town of Niagara-on-the-Lake.
 - g) "Director" means the Director of Community & Development Services for the Corporation of the Town of Niagara-on-the-Lake or designate as identified by the Director in writing from time to time.
 - h) "Agricultural Use" means the growing of crops, including nursery, biomass, and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including, but not limited to livestock facilities, manure storages, value-retaining facilities, and accommodation for full-time farm labour when the size and nature of the operation requires additional employment.
 - i) "Agriculture Related Use" means those farm-related commercial and farm-related industrial uses that are directly related to farm operations in the area, support agriculture, benefit from being in close proximity

to farm operations, and provide direct products and/or services to farm operations as a primary activity.

- j) "Fee" means the in force and effect application fee(s) as approved by Town Council.
3. That in accordance with subsection 41(4.0.1) of the *Planning Act*, Council appoints the following officer, employee or agent of the municipality as an authorized person for the approval of Site Plans and Site Plan Control Agreements:
 - a) The Director of Community and Development Services, or designate, is appointed as an authorized person.
 4. Upon approval of an application, the Director or designate is authorized to sign any Site Plan Control Agreement and any documents which may be required to implement the conditions of approval.
 5. That all lands within the municipal boundaries of the Town of Niagara-on-the-Lake is hereby designated as a Site Plan Control Area and shall be subject to the provisions of Section 41 of the *Planning Act*, as amended, or any successor thereto.
 6. No person or corporation shall undertake any development in the Site Plan Control Area regulated by this By-law unless the Director, or where referral has been made under subsection 41(12) of the *Planning Act* to the Ontario Land Tribunal, has approved, one or both, as the Director may determine, of the following:
 - a) Plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith and all the facilities and works required under the Site Plan Control Agreement referred to hereinafter, including facilities designed to have regard for accessibility for persons with disabilities.
 - b) Drawings showing plan, elevation and cross-section views for each industrial, commercial and institutional building to be erected, and for each residential building as provided in this By-law to be erected which are sufficient to display:
 - (i) The massing and conceptual design of the proposed building;
 - (ii) The relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access;

- (iii) The provision of interior walkways, stairs, elevators, and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings, but which exclude the layout of interior areas other than interior walkways, stairs, elevators and escalators referred to in this clause, and excluding the colour, texture and type of materials, window detail, construction details, architectural detail and interior design.
- (iv) the sustainable design elements on any adjoining highway under a municipality's jurisdiction, including without limitation trees, shrubs, hedges, plantings or other ground cover, permeable paving materials, street furniture, curb ramps, waste and recycling containers and bicycle parking facilities where the appearance impacts matters of health, safety, accessibility, sustainable design or the protection of adjoining lands.
- (v) facilities designed to have regard for accessibility for persons with disabilities.

7. In accordance with subsection 41(13) of the *Planning Act*, the following classes of development may be undertaken without the approval of plans and drawings otherwise required under subsections 41(4) and 41(5) of the *Planning Act*:

- a) Land used or proposed for single detached or semi-detached dwellings and related accessory buildings.
 - (i) Any dwelling approved as a Country Inn and Villa is not exempt from Site Plan Control.
- b) Farm buildings except agriculture related uses, greenhouses and/or packaging operations, or additions thereto that result in a total floor area of 10,000 ft² or more.
- c) Any residential development containing ten (10) residential dwelling units or less, including buildings or structures accessory to such residential development, unless the parcel of land includes any land in a prescribed area in accordance with *Ontario Regulation 254/23* under the *Planning Act*.
- d) Placement of a portable classroom on a school site of a district school board if the school site was in existence on January 1, 2007.

8. As a condition to the approval of the plans and drawings referred to in Section 6 of this By-law, the Director or designate may require the owner of the land to:
 - a) Provide to the satisfaction of and at no expense to the municipality any or all of the following:
 - 1) Widening of highways that abut on the land, provided such highways are designated in an Official Plan as highways to be widened and the extent of such proposed widening is indicated or described;
 - 2) Subject to the *Public Transportation and Highway Improvement Act*, facilities to provide access to and from the land such as access ramps and curbings and traffic direction signs;
 - 3) Off-street vehicular loading and parking facilities, either covered or uncovered, access driveways, including driveways for emergency vehicles, and the surfacing of such areas and driveways;
 - 4) Walkways and walkway ramps, including the surfacing thereof, and all other means of pedestrian access, including facilities designed to have regard for accessibility for persons with disabilities;
 - 5) Facilities for the lighting, including floodlighting, of the land or of buildings or structures thereon.
 - 6) Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands or the protection of adjoining lands;
 - 7) Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material.
 - 8) Easements conveyed to the municipality for the construction, maintenance or improvement of watercourse, ditches, land drainage works, sanitary sewage facilities and other public utilities of the municipality or local board thereof on the land;
 - 9) Grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon;
 - b) Maintain to the satisfaction of the municipality and at the sole risk and expense of the owner any or all of the facilities or works mentioned in paragraphs 2), 3), 4), 5), 6), 7), 8) and 9) of Section 8 (a) of this By-law, including the removal of snow from access ramps and driveways,

parking and loading areas and walkways;

- c) Enter into one or more agreements with the municipality dealing with and ensuring the provision of any or all of the facilities, works or matters mentioned in Section 8 (a) and (d) of this By-law and the maintenance thereof as mentioned in Section 8 (b) of this By-law or with the provision and approval of the plans and drawings referred to in Section 6 of this By-law.
 - d) Convey part of the land to the municipality to the satisfaction of and at no expense to the municipality for a public transit right of way. An owner of land may not be required to convey land for a public transit right of way if it is not shown on or described in an Official Plan.
9. Any agreement entered into as herein provided for may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner of the land, including any and all subsequent owners of the land, and subject to the provisions of the *Registry Act* and the *Land Titles Act*.
10. No building permit shall be issued in respect of any development in the Site Plan Control Area until the plans required hereby have been approved by the Director of Community and Development Services, or designate, and any agreements required to be entered into have been executed and registered against the land to which it applies.
- a) In accordance with Section 7 (b) of this By-law, site plan control approval shall be required for any greenhouse operation that is 10,000 square feet or greater.
 - (i) All site plans and site plan control agreements for Cannabis Production and Processing shall be forwarded to the Director for approval.
 - b) When a development as set out in this By-law, is deemed to require a Site Plan Agreement and pursuant to Section 41 of the *Planning Act*, the Director or designate has approved the plans and the said agreement, the Lord Mayor and Town Clerk are hereby authorized to execute the agreement with the owner of the property of which the development is proposed, after the agreement has been first signed by the owner.
 - c) The Director may require a Site Plan and Site Plan Agreement to be forwarded for approval either by the Directors own request or through that of the owner.

11. In accordance with subsection 41 (11.1) of the *Planning Act*, a site plan application fee shall be refunded, with respect to plans and drawings received on or after July 1, 2023, as follows:
- a) If the Town approves a site plan application within 60 days, the Town shall not refund the fee.
 - b) If the Town has not approved a site plan application within 60 days, the Town shall refund 50 per cent of the fee unless the owner has waived, in writing to the Director, the requirement to refund the fee.
 - c) If the Town has not approved a site plan application within 90 days, the Town shall refund 75 per cent of the fee unless the owner has waived, in writing to the Director, the requirement to refund the fee.
 - d) If the Town has not approved a site plan application within 120 days, the Town shall refund all of the fee unless the owner has waived, in writing to the Director, the requirement to refund the fee.
12. All site plans and site plan agreements approved or entered into prior to the passage of this By-law shall continue to be in full force and effect.
13. Any person who contravenes this By-law is guilty of an offence and conviction is liable to a fine as described in Section 67 of the *Planning Act*.
14. That this By-law shall come into force and effect upon the date of passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 26TH DAY OF MARCH, 2024.

LORD MAYOR GARY ZALEPA

TOWN CLERK GRANT BIVOL