

# THE CORPORATION OF THE TOWN OF KINGSVILLE

## BY-LAW 5 – 2023

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Being a By-law to designate an area of site plan control and delegate certain powers and authority respecting site plan approvals

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**WHEREAS** section 41 of the *Planning Act* authorizes Council to designate the Town as a site plan control area;

**AND WHEREAS** section 41(4.0.1) of the *Planning Act* requires Council to delegate certain powers and authority under section 41 to an appointed officer, employee or agent of the Town;

**AND WHEREAS**, by the adoption of resolution #279-06272022 of Council, the Town has delegated such powers and authority under section 41 of the *Planning Act* to the Director of Community and Development Services;

**NOW THEREFORE THE COUNCIL OF THE TOWN OF KINGSVILLE HEREBY ENACTS AS FOLLOWS:**

### 1. DEFINITIONS

1.1. In this By-Law 5-2023, the following terms have the meanings specified or referred to:

- (a) **“Delegated Personnel”** shall mean the Town’s Director of Community and Development Services and his or her delegate.
- (b) **“Development”** shall mean 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, 2001*, S.O. 2001, c. 25 or of sites for the location of three (3) 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 (3) or more land lease community homes as defined in subsection 46(1) of the *Planning Act*.
- (c) **“Facilities and Works”** shall include, but not necessarily be limited to, the following:
  - (i) parking;
  - (ii) fencing;
  - (iii) driveways;
  - (iv) signage;
  - (v) sidewalks;
  - (vi) lighting;
  - (vii) landscaping
  - (viii) all municipal, public and/or private services, storm water management ponds;
  - (ix) rate of flow monitor(s);

- (x) pedestrian and vehicular access;
  - (xi) truck and fire routes;
  - (xii) loading areas;
  - (xiii) open storage area; and
  - (xiv) surface treatment.
- (d) “**Planning Act**” shall mean the *Planning Act, R.S.O. 1990, c. P.13*, as amended.
- (e) “**Portable Sign By-Law**” shall mean By-Law 91-2015, as amended.
- (f) “**Residential Unit**” shall share the same definition as a “residential unit” under the *Planning Act*.
- (g) “**Town**” shall mean The Corporation of the Town of Kingsville, a municipal corporation in the Province of Ontario, and, where the context so requires, shall also mean the area of land within the corporate boundaries thereof as constituted from time to time.
- (h) “**Zoning By-Law**” means By-Law 1-2014, as amended.

## 2. DESIGNATION OF AREA OF SITE PLAN CONTROL

- 2.1. All of the lands situated within the Town are hereby designated as a site plan control area.

## 3. APPROVAL OF PLANS OR DRAWINGS

- 3.1. Subject to the provisions of section 8.1 herein, no person or corporation shall undertake any development in the Town unless the Delegated Personnel or, where referral has been made in accordance with the *Planning Act*, the Ontario Land Tribunal (or any successor authority with comparable jurisdiction) has approved both of the following:
- (a) plans showing the location of all buildings and structures, both existing and proposed, and showing the location of all Facilities and Works in conjunction therewith and of all Facilities and Works required under section 41(7)(a) of the *Planning Act*;
  - (b) drawings showing plan views and, at the discretion of the Delegated Personnel, elevation and cross-section views for each building to be erected, which drawings are sufficient to display:
    - (i) the size 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.
    - (iv) the sustainable design elements on any adjoining street or highway; and

- (v) facilities designed to have regard for accessibility for persons with disabilities.

but which exclude the layout of interior areas, other than the interior walkways, stairs, elevators and escalators (save for those referred to in subsection (iii) herein), the colour, texture and type of material, window detail, construction details, architectural detail and interior design.

#### **4. DELEGATION OF POWERS AND AUTHORITY**

- 4.1. The power and authority to consider and approve or refuse to approve site plans and drawings submitted by owners of land pursuant to section 41 of the *Planning Act* is delegated to the Delegated Personnel.
- 4.2. The power and authority to require owners of land to enter into site plan agreements with the Town, as a condition to the granting of approvals under section 4.1 herein, and the authority to execute such agreements is delegated to the Delegated Personnel.
- 4.3. The Delegated Personnel are authorized and directed to do all things necessary, including, but not limited to:
  - (a) amending or releasing any registered site plan agreement;
  - (b) giving effect to the approval of plans and drawings for a development under section 41 of the *Planning Act*; and
  - (c) requiring that any approval be conditional upon minor variances as may already have been approved for the project by the Committee of Adjustment becoming final and binding.
- 4.4. The ability to exercise the powers and authority delegated to the Delegated Personnel under the provisions of section 4.1 herein is subject to the receipt of a recommendation from the Manager of Planning.

#### **5. DISCRETION OF THE DELEGATED PERSONNEL**

- 5.1. Notwithstanding the provisions of section 8.1 herein, site plan approval may be required if, at the discretion of the Delegated Personnel, a proposed Development should be subject to site plan control.

#### **6. ALTERATIONS TO APPROVED PLANS OR DRAWINGS**

- 6.1. Notwithstanding any other provisions herein, any change made to approved plans or drawings, including applicable items under the provisions of section 8.1 herein, must be reviewed and approved by the Delegated Personnel and said changes must be attached to the existing approved agreement. In the event the Delegated Personnel determines in their sole discretion that an amending agreement is required, the cost of the preparation and register of the amending agreement will be the sole responsibility of the Owner(s), which costs shall be paid to the Town prior to the issuance of any building permit(s).

#### **7. CLASSES OF SITE PLAN APPROVAL**

- 7.1. The following shall be subject to full site plan approval by the Delegated Personnel:
  - (a) all new Development, including parking lots, not expressly excluded under the provisions of section 8.1 herein;

- (b) all new Development which requires the approval of an amendment to the Zoning By-Law in combination with site plan approval; and
- (c) all amendments to any Development that has existing site plan approval.

## **8. EXCLUDED CLASSES OF DEVELOPMENT**

8.1. The following classes of Development may be undertaken on the lands designated as a site plan control area without the approval of plans and drawings by the Delegated Personnel:

- (a) single detached dwellings,
- (b) semi-detached dwellings and duplex dwellings;
- (c) town house dwellings on a site which contains no more than ten (10) Residential Units;
- (d) multiple dwelling or apartment structure(s) on a site which contains no more than ten (10) Residential Units (excluding any combined use buildings);
- (e) an agricultural use as defined in the Zoning By-Law, (excluding greenhouse farms, mushroom farms, and any processing or warehousing facilities);
- (f) an addition to enclose a stairway;
- (g) an addition to enclose a loading area or open storage area not exceeding one hundred square metres (100 m<sup>2</sup>) in area;
- (h) a permanent sign including any alteration to an existing permanent sign on lands with no approved site plan;
- (i) a portable sign located and licensed in accordance with the Portable Sign By-Law; and
- (j) building features or mechanical elements including but not necessarily limited to a spire, belfry, skylight, cupola, scenery loft, chimney, smokestack, water storage tank, air-conditioning and/or heating equipment, ventilator, mechanical penthouse, fencing for protective or screening purposes, communications equipment, pedestrian bridge, fire escape, building entrance/exit and canopy or awning, provided further that the said building feature or mechanical element is to be constructed separate and apart from any other Development as defined herein which previously obtained site plan approval.

## **9. PENALTY**

9.1. Every person and corporation who contravenes any provision herein and, if the offender is a corporation, every director and officer of the corporation who knowingly concurs in the contravention, is guilty of an offence.

9.2. Where a person, including a director or officer of a corporation, is convicted of an offence, as described under the provisions of section 9.1 herein, the maximum penalty that may be imposed is:

- (a) on a first conviction, a fine of not more than twenty-five thousand dollars (\$25,000.00); and
- (b) on a subsequent conviction, a fine of not more than ten thousand dollars (\$10,000.00) for each day or part thereof

upon which the contravention has continued after the day on which the person was first convicted.

- 9.3. Where a corporation is convicted of an offence, as described under the provisions of section 9.1 herein, the maximum penalty that may be imposed is:
- (a) on a first conviction, a fine of not more than fifty thousand dollars (\$50,000.00); and
  - (b) on a subsequent conviction, a fine of not more than twenty-five thousand dollars (\$25,000.00) for each day or part thereof upon which the contravention has continued after the day on which the person was first convicted.
- 9.4. Where a conviction is entered under the provisions of this By-law 5-2023, in addition to any other remedy or any penalty provided by law, the court in which the conviction has been entered, and any court or competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person or corporation convicted.

## **10. MISCELLANEOUS PROVISIONS**

- 10.1. The headings herein which identify various sections, paragraphs, subsections and clauses are inserted for convenience or reference only and are in no way intended to describe, interpret, define, affect the construction of or limit the scope, extent or intent of this By-law 5-2023 or any provision herein.

## **11. REPEAL OF BY-LAW 128-2015**

- 11.1. By-law 128-2015, and all amendments thereto, are hereby repealed on the day of the final passing of this By-law 5-2023.

## **12. ENACTMENT OF THIS BY-LAW 5-2023**

- 12.1. This By-law 5-2023 shall come into force and take effect on the day of the final passing thereof.

**READ THREE TIMES AND PASSED this \_\_\_\_\_ day of February, 2023.**

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**MAYOR, Dennis Rogers**

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**CLERK, Paula Parker**