

**CORPORATION OF THE TOWN OF AMHERSTBURG
BY-LAW NO. 2022-045**

**Amending By-law to update the requirements for Site Plan Control in the
Town of Amherstburg**

WHEREAS Section 41(2) of The Planning Act, R.S.O. 1990, c. P. 13 as amended authorizes the council of a municipality by by-law to designate the whole or any part of the area covered by the Official Plan as a site plan control area;

AND WHEREAS it is deemed expedient to designate the entire municipality as a “site plan control area”;

AND WHEREAS Council deems it necessary and advisable, as hereinafter provided, that the Owner of land enter into a site plan agreement with the Town with respect to any or all of the items contained within Section 41 of the Planning Act, R.S.O. 1990, as amended (the “Act”);

AND WHEREAS Section 41(13)(a) of the Act authorizes municipalities to define any classes of development that may be undertaken without site plan approval.

AND WHEREAS Section 41(7) and 42 of the Act provide for conditions of approval that the municipality may require.

NOW THEREFORE the Council of The Corporation of the Town of Amherstburg enacts as follows:

DEFINITIONS

1. In this by-law,

“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, 2001 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;

“Facilities and Works” may include but not necessarily be limited to the following: parking, fencing, driveways, signage, sidewalks, lighting, landscaping, all municipal, public and/or private services, storm water management ponds, rate of flow monitor(s), access, truck and fire routes, loading areas, open storage area and surface treatment.

“Minor” in regard to site plan approval or site plan amendment shall mean a change which does not result in an increase in floor area of a main building in excess of 10% and does not result in a need to undertake changes to the approved storm water management system, infrastructure extension(s), service connection upgrades (other than replacement of existing) or other Planning Act approval(s).

“Town” means The Corporation of the Town of Amherstburg.

“Town of Amherstburg” means the geographical area of the municipality.

“Zoning By-law” means the Zoning By-law as amended of the Town, which may be amended from time to time.

DESIGNATION

2. All lands lying within the Town of Amherstburg are designated as a "Site Plan Control Area".

APPROVAL OF PLANS OR DRAWINGS

3. Subject to the provisions of Section 4 herein, no person shall undertake any development in the Town of Amherstburg unless the Council of the Town or the Chief Administrative Officer or designate, or appointed officer(s) delegated by Council or, where a referral has been made under subsection 12 of Section 41 of the Act, the Local Planning Appeal Tribunal has approved both of the following:

- i. 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 Act, and
- ii. Drawings showing all plan views, and at the discretion of the Chief Administrative Officer or designate, elevation and cross-section views for each building to be erected, which drawings are sufficient to display,
 - a) the size and conceptual design of the proposed building,
 - b) the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access,
 - c) 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, and
 - d) matters relating to exterior design, including without limitation, the character, scale, appearance and design features of buildings, and their sustainable design, but only to the extent that it is a matter of exterior design

but which exclude the layout of interior areas, (other than the interior walkways, stairs, elevators and escalators referred to in clause c)) and interior design.

4. Notwithstanding the provisions of Section 3 of this by-law, the following class or classes of Development may be undertaken without the approval of plans and drawings otherwise required under said Section 3:

- i. single detached dwellings, semi-detached dwellings and duplex dwellings except those within a Heritage Zone;
- ii. semi-detached dwellings, duplex dwellings and multiple dwellings which are developed within an approved plan of subdivision, (not applicable to infill development in an existing built area);
- iii. an agricultural use as defined in the Zoning By-law, (excluding abattoirs, greenhouses, wineries, kennels, breweries and cideries and mushroom farms);
- iv. an addition to enclose a stairway;
- v. an addition to enclose a loading area or open storage area not exceeding 100 square metres in area;
- vi. a permanent sign including any alteration to an existing permanent sign on lands with no approved site plan;

- vii. a portable sign located and licensed in accordance with the Town's Portable Sign By-law;
- viii. 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 in this by-law which previously obtained site plan approval.

CLASSES OF SITE PLAN APPROVAL

5.

i) Site Plan Approval – Council

- a. All new Development, including parking lots, not excluded by Section 4, with a construction value exceeding \$1,000,000 or located adjacent to or within a residential zone shall be subject to full site plan approval by Council.
- b. All new Development which requires approval of a zoning by-law amendment in combination with site plan approval regardless of the dollar value of construction.

ii) Site Plan Approval – Administrative

All new Development, including parking lots, not excluded by Section 4, with a construction value of less than \$1,000,000 and not located adjacent to or within a residential zone shall be subject to approval by the Chief Administrative Officer or designate.

iii) Site Plan Amendment

All amendments to any Development that has existing site plan approval shall be subject to the approval of the Chief Administrative Officer or designate, who has the discretion to refer the amendment to Council for approval.

DELEGATION OF SITE PLAN APPROVAL

6. Pursuant to Section 41(13)(b) of the Planning Act, R.S.O., 1990, the powers and authority given to Council of the Town under Section 41 of the Act are hereby delegated to the Chief Administrative Officer or designate, the powers and authority under Section 1 subject to the provisions of Section 5 of this by-law.

GENERAL

- 7. Notwithstanding Section 4 of this by-law site plan approval may be required if, at the discretion of the Chief Administrative Officer or designate, a proposed Development regardless of location, type or dollar value should be subject to site plan control.
- 8. Notwithstanding any other provisions of this by-law to the contrary, any change made to approved plans or drawings, including applicable items under Section 4 herein, must be reviewed and approved by the Chief Administrative Officer or designate, and said changes must be attached to the existing approved agreement. In the event the Chief Administrative Officer or designate, determines in his or her sole discretion that an amending development agreement is required, the cost of the preparation and register of the amending site plan development 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).

PENALTY

9.

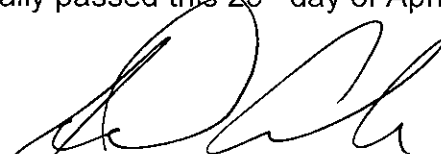
- i) Every person who contravenes any provision of this By-law and, if the person is a corporation, every director or officer of the corporation who knowingly concurs in the contravention, is guilty of an offence and on conviction is liable,
 - a) on a first conviction to a fine of not more than \$25,000; and
 - b) on a subsequent conviction to a fine of not more than \$10,000 for each day or part thereof upon which the contravention has continued after the day on which the person was first convicted.
- ii) Where a corporation is convicted under subsection i), the maximum penalty that may be imposed is,
 - a) on a first conviction a fine of not more than \$50,000; and
 - b) on a subsequent conviction a fine of not more than \$25,000 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted, and not as provided in subsection i).
- iii) Where a conviction is entered under subsection i), 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 convicted.

REPEAL OF BY-LAW 2018-51

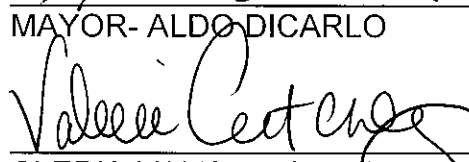
10. By-law 2018-51 of The Corporation of the Town of Amherstburg, and all amendments thereto are hereby repealed.

11. This by-law shall come into force and take effect on the final passing thereof.

Read a first, second and third time and finally passed this 25th day of April, 2022.



MAYOR- ALDO DICARLO



CLERK- VALERIE CRITCHLEY