

THE CORPORATION OF THE MUNICIPALITY OF KILLARNEY

BY-LAW NO. 2023-08

BEING A BY-LAW TO ESTABLISH A SITE PLAN CONTROL AREA WITHIN THE LIMITS OF THE CORPORATION OF THE MUNICIPALITY OF KILLARNEY

WHEREAS Section 41 of the Planning Act, R.S.O 1990, c. P. 13 provides that, where in an Official Plan an area is shown or described as a proposed site plan control area, the council of the local municipality in which the proposed area is situated 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 Municipality of Killarney has in effect an Official Plan which deems the whole of the Municipality as a site plan control area; and

WHEREAS Section 41 of the Planning Act provides that no person shall undertake any development in an area designated under a by-law passed under that section without first having received approval; and

WHEREAS Section 41 of the Planning Act provides that Council may define any class or classes of development that may be undertaken without approval; and

WHEREAS Section 41 of the Planning Act provides that Council may delegate to an appointed officer of the municipality Council's power or authority under that Section;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF KILLARNEY HEREBY ENACTS AS FOLLOWS:

1. SHORT TITLE

1.1. This by-law shall be known as the "Site Plan Control By-law".

2. DESIGNATED AREA

2.1. This by-law applies to all lands and land covered by water within the geographic limits of the Municipality and all classes of development, except those classes exempted under Section 4 of this by-law.

3. DEFINITIONS

For the purposes of this by-law:

3.1. "Act" means the Planning Act, R.S.O. 1990, c.P.13, as amended.

3.2. "Approval Authority" means an officer, employee or agent of the municipality as an authorized person to exercise Council's powers or authority under section 41 of the Act.

3.3. "Council" means the elected members of council of the Municipality of Killarney.

3.4. "Development" means development as defined under Section 41 of the Act. For purposes of this definition, increasing the usability of a building or structure includes:

- i. interior alterations designed to accommodate a more intensive use;
- ii. any change in use or alteration to a structure that creates or is likely to create a change in the amount of noise, lighting, odour and/or vibration which is generated on the property;
- iii. alter the ingress/egress of the property;

- iv. alter the traffic flow on or around the subject property, including the installation of a drive-through or marina;
- v. alter the parking or loading requirements;
- vi. the establishment of an industrial use;
- vii. the establishment of a commercial use; or
- viii. the establishment of a marina.

3.5. “Municipality” means the Municipality of Killarney.

3.6. “Official Plan” means the Official Plan for the Sudbury East Planning Area as amended.

3.7. “Temporary Building” means any structure or erection or part of a structure or erection which is intended to be used only for temporary purpose for a definite period and which is made of temporary and quickly removable building material.

3.8. “Traffic flow” refers to the movement of all vehicles including boats.

3.9. “Zoning By-law” means the Zoning By-law for the Sudbury East Planning Area as amended.

4. EXEMPTIONS

4.1. The following classifications of development shall be exempt from Site Plan Control:

- a) single detached dwellings, semi-detached dwellings, linked dwellings, duplex dwellings, multiple dwellings not exceeding 10 units on residentially zoned properties, unless site plan control has been made a condition of consent for severance, easement, lot addition, or of approval of a subdivision or condominium, or unless site plan control is required in accordance with a Special Policy Area included in the Official Plan;
- b) buildings accessory to the buildings described in section 4.1.a);
- c) agricultural and farm related buildings, building additions, building alterations or structures that are utilized in farming operations but not including agricultural-commercial or industrial operations such as farm equipment sales and service, cannabis production, farm supply sales and agricultural storage, service or supply establishments;
- d) sand and gravel pits located in the Municipality;
- e) provision and maintenance of Facilities, etc.;
- f) signs;
- g) temporary buildings;
- h) any development, buildings or structures erected by the Municipality.
- i) Any development that has been expressly waived from the requirement in writing by the Approval Authority based on review with the Chief Building Official. Such waiver shall include a written explanation for waiving the requirement.

5. DELEGATION OF AUTHORITY

5.1. The Chief Building Official is granted the authority to require or waive the requirement for a Site Plan Agreement based on this by-law and all other applicable law.

5.2. The Director of Planning of the Sudbury East Planning Board is hereby delegated as the Approval Authority for the Municipality to exercise Council’s powers or authority under section 41 of the Act to approve plans and drawings and to impose conditions.

5.3. Council is the Approval Authority for Site Plan Control Agreements upon recommendation from the Director of Planning.

6. APPROVAL OF PLANS

6.1. No person shall undertake any development in the site plan control area unless the Municipality has approved the following:

- a) Plans showing the true dimensions of the lot to be built upon, excavated or otherwise to be used or occupied;
- b) Plans showing the location, heights, floor area and dimensions of all existing and proposed buildings and structures to be developed on the lands;
- c) Plans showing detailing exterior design, including but not limited to 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 in accordance with any applicable design policies of the Municipality's Official Plan;
- d) Plans showing the relationship of all existing or proposed buildings or structures to adjacent buildings and streets and the location and dimension of all yards, setbacks, landscaped open space, landscape features including retaining walls, outside storage, off set parking and loading facilities;
- e) Plans showing such contours, elevations, and cross-sections as may be required to determine surface drainage patterns, flood line elevations and elevation of the lands and proposed buildings and structures relative to a public street, road or waterway; and
- f) The general location of all services such as water supply, sewage disposal, solid waste collection, energy supplies and communication utilities.

7. SITE PLAN AGREEMENTS

- 7.1. The owner may be required to enter into an agreement with the Municipality to provide and maintain those facilities required on the site plan and authorized by Section 41(7) of the Act.
- 7.2. Where it is determined that a site plan control agreement is required, no building permit shall be issued or no development is permitted until the plans and drawings and any such agreements required by the Municipality for such development have been approved by Council, its delegated authority, or where a referral has been made to the Ontario Land Tribunal or so ordered by a Court of competent jurisdiction.
- 7.3. The Agreement shall be registered against the lands affected by the Agreement, and the cost of such registration shall be borne by the owner, or person undertaking the development.

Pre-consultation Meeting

- 7.4. Prior to submitting an application for Site Plan Approval, applicants are required to attend a formal pre-consultation meeting with the Approval Authority to discuss the requirements of the site plan approval process and provide a preliminary review of the proposed site plan control application.

Site Plan Complete Application Requirement

- 7.5. A Site Plan Control Application, as provided by the Sudbury East Planning Board, shall be completed in accordance with the requirements determined by the Approval Authority in the Site Plan Control Agreement Application. A complete application shall include but will not be limited to the following: all necessary plans and drawings, any required studies, including but not limited to water drainage management, traffic, and application fee(s). If the necessary information is not completed or supplied, the application will be deemed incomplete and will not be processed until satisfactory information is received.

Agency Circulation

- 7.6. In order to ensure that the Approval Authority receives Municipal and Agency comments prior to the drafting of the Agreement, and upon receipt of a complete application, the Approval Authority shall circulate for review and comment to Municipal Departments and external agencies (MTO, MNRF, MECP, DFO, Utilities, Health Unit or any other as deemed necessary) to ensure compliance of the site plan to municipal policies, by-law and/or statutes administered by such departments or agencies.

Execution of Agreement

- 7.7. Any agreement which may be required pursuant to the provisions of this By-law upon the written recommendation of the Approval Authority, shall be executed by the Municipality.

8. SECURITIES AND COMPLETION OF WORKS AT OWNERS' EXPENSE

- 8.1. The Municipality may require securities to be posted for the provision of the facilities works or matters mentioned in Section 41(7) of the Act, that are in the public interest, including but not limited to any works on public lands, and any landscaping or site grading works of shoreline vegetation buffer works on private lands;
- 8.2. Where an owner is required to complete development in accordance with a Site Plan Agreement and is in default of the Agreement, the Municipality is hereby authorized to complete the requirements of the Agreement at the expense of the owner and the expense so incurred may be recovered from securities posted of the works, or where such securities are insufficient to cover the works, in like manner as municipal taxes.

9. CONFLICT

- 9.1. In the event the provisions of this by-law are inconsistent with the provisions of the Act, its regulations or any other act and the regulations thereunder, the provisions of the Act or regulation shall apply.
- 9.2. If there is a conflict between a provision of the by-law and a provision of any other applicable municipal by-law, the more stringent provision shall apply.

10. SEVERABILITY

- 10.1 The terms and provisions of this by-law shall be severable and should any term or provision be found by a court of competent jurisdiction to be legally unenforceable, inoperative or invalid, the remainder of the by-law shall continue to be in full force and effect.

11. ENFORCEMENT AND PENALTY

- 11.1 Site Plan Control Agreements may be required to be registered on title in accordance with section 41(10) of the Act and remain in effect for as long as the development is in place.
- 11.2 Every person who contravenes Section 41 of the Act or any of the provisions of this by-law is guilty of an offence and upon conviction is liable to the penalties set out in Sections 67(1) and 67(2) of the Act.

12. EFFECTIVE DATE

- 12.1 This By-Law shall come into force and effect on the day of its passing.

READ A FIRST, AND TAKEN AS READ A SECOND AND THIRD TIME AND FINALLY PASSED IN OPEN COUNCIL THIS 8th DAY OF MARCH, 2023.

ORIGINAL DOCUMENT SIGNED

Michael Reider, Mayor

ORIGINAL DOCUMENT SIGNED

Candy Beauvais, Clerk-Treasurer