

Municipality of Lakeshore

By-law 106-2024

Being a by-law to establish a site plan control area for the Municipality of Lakeshore and to adopt rules for the processing of site plan development applications

Whereas subsection 41(2) of the *Planning Act*, R.S.O. 1990, c.P.13 (the “Planning Act”) authorizes municipalities to designate an area as an area of site plan control subject to an enabling provision being contained in an approved official plan;

And whereas the Municipality of Lakeshore (the “Municipality”) has an enabling provision contained in section 8.3.5 of its Official Plan;

And whereas on July 1, 2022, subsection 41(4.01) of the *Planning Act* came into force which requires that a municipal council that passes a by-law under subsection 41(2) of that Act appoint an officer, employee or agent of the municipality as an authorized person for the purposes of approval of drawings and plans under section 41(4) of the *Planning Act*;

And whereas By-law 62-2022, being a by-law to establish a site plan control area for the Municipality of Lakeshore and to adopt rules for the processing of site plan development applications, came into effect on July 1, 2022;

And whereas the *Planning Act* states that Council may, by by-law, define any class or classes of development that may be undertaken without the approval of plans and drawings otherwise required under subsection 41(4) or 41(5) of that Act;

And whereas the Municipality requires the approval of certain plans and drawings as a condition of development, save and except for certain class or classes of development; and

And whereas Council continues to deem it necessary for an owner of land to enter into a Site Plan Control Agreement with the Municipality with respect to any or all of the items contained in section 41 of the *Planning Act*;

Now therefore the Council of the Municipality of Lakeshore enacts as follows:

Interpretation

1. In this By-law, including the recitals, the following capitalized words will have the following meanings unless the context otherwise requires:

“Council” means the Council of the Municipality of Lakeshore;

“Person” includes an individual, a corporation, a partnership, and an unincorporated association, as the context requires;

"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*, as the case may be 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 that Act;

“Division Leader” means the person holding the employment title of Division Leader - Community Planning for the Municipality;

“Owner” means the Person that is the registered owner of the land pursuant to the laws of the Province of Ontario;

“Site Plan” means plans, drawings or both as described in subsection 41(4) of the *Planning Act*, and

“Site Plan Control Area” means the lands designated in section 7.

2. If any court of competent jurisdiction finds any provision of this by-law is invalid or is ultra vires of the jurisdiction of the Municipality, such provision shall be deemed to be severable and shall not invalidate any of the other provisions of this by-law.
3. The headings contained in this by-law are for ease of reference only and do not form part of this by-law.
4. References in this by-law to words in the singular shall be deemed to include the plural.
5. Reference to any statute, by-law or Official Plan includes any amendment to that statute, bylaw or Official Plan and any successor thereto.
6. Any schedules to this by-law shall be binding and in force as though the schedule formed part of the by-law.

Site Plan Control Area

7. All of the lands within the geographic boundaries of the Municipality of Lakeshore are designated as a Site Plan Control Area pursuant to section 41 of the *Planning Act*.

Drawings

8. In addition to the mandatory requirements contained in subsection 41(4) of the *Planning Act*, drawings submitted for approval shall, to be considered sufficient,

must display:

- (i) 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; and
- (ii) the sustainable design elements on any adjoining highway under a municipality's jurisdiction, including without limitation trees, shrubs, hedge plantings or ground cover, permeable paving materials, street furniture, curb ramps, waste and recycling containers and bicycle parking facilities.

Class or Classes of Land Excluded

9. Development in the class or classes of Development described in Schedule "A" may be undertaken without approval pursuant to this by-law.

Major and Minor Site Plans

10. Development is deemed to be a Major Site Plan where:

- (i) New buildings or additions to existing buildings greater than of 929 square metres (10,000 sq. ft) or additions greater than 929 square metres (10,000 sq. ft) or greater than 3 storeys in building height or;
- (ii) Comprehensive changes to on-site grading, servicing, drainage or parking affecting lands greater than .6 hectare (1.5 acres) in land area.

11. Development is deemed to be a Minor Site Plan where:

- (i) New buildings or additions to existing buildings not exceeding 929 square metres (10,000 sq. ft) or up to 3 storeys in building height or;
- (ii) New development or changes to landscaping, parking, on-site grading or drainage areas up to .6 hectare (1.5 acres) in land area, including revisions to building elevations, patios or additions thereto.

12. The Major and Minor categories, as listed in sections 10 and 11, apply to development where a previous Site Plan has been approved and/or a Site Plan Agreement has been entered into with the Municipality.

Delegation of Site Plan Approval

- 13. The Division Leader is appointed to approve Site Plans or amendments to Site Plans and approve any conditions to a Site Plan if such conditions are permitted under the *Planning Act*.
- 14. Where there is ambiguity about whether a development qualifies as excluded (under Schedule A), the requirement for site plan approval is determined by the Division Leader.

15. In the absence of the Division Leader, the persons holding the employment title of Corporate Leader – Growth and Sustainability, or the Chief Administrative Officer may carry out the authority to approve Site Plans under Sections 13 and 14.

Lapsing of Approval

16. A lapsing provision may be imposed to approved site plan approvals unless a building permit is issued prior to expiration, as per the provisions of subsections 41 (7.1), (7.2), or (7.3) of the Planning Act.

Financial Fees and Security Deposit

17. The Municipality will collect fees for review of Site Plans and will collect a financial security deposit from the Owner as set out in the User-Fee By-law.

Execution of Agreements

18. After approval of a Site Plan application or any amendment to a site plan or amendments to conditions by the Division Leader, the Mayor and Clerk are authorized to sign any agreements or instruments required to implement the conditions of an approval. Such agreements or instruments will be registered on title.

Reporting

19. The Division Leader shall inform Council of the exercise of authority delegated under this by-law by way of an information report presented at a regular meeting of Council on a quarterly basis.

Remedial Action

20.
 - a) If a By-law Compliance Officer is satisfied that a contravention of this by-law has occurred, the By-law Compliance Officer may make a remedial work order requiring an Owner to do work to correct the contravention and the remedial work order shall set out:
 - (i) the municipal address or the legal description of the land requiring the remedial work;
 - (ii) reasonable particulars of the contravention and of the work to be done and the period within which there must be compliance with the order; and
 - (iii) a notice stating that if the work is not done in compliance with the order within the period it specifies, the Municipality may have the work done at the Owner's expense.
 - b) A remedial work order shall be served personally or by prepaid registered mail sent to the last known address of the Owner of the land or both.
 - c) If a By-law Compliance Officer is unable to effect service on the Owner, the

By-law Compliance Officer may place a placard containing the terms of the order in a conspicuous place on the land.

- d) If the work or things required by a Remedial Work Order are not done within the period specified therein, the Municipality, in addition to all other remedies it may have, may, by its employees or agents, do the work required by the Remedial Work Order and the employees or agents of the Municipality may enter on the land that are the subject of the order for this purpose.
- e) Any Person that contravenes a Remedial Work Order is guilty of an offence.

Recovery of Expenses and Fines

21.

- a) Costs incurred by the Municipality pursuant to a Remedial Work Order, in addition to an administration Fee, shall be recovered from the Owner from the security provided where applicable. All of the costs or the balance of the costs not recovered through the security, where applicable, shall be added by the Treasurer to the tax roll for any property in the Municipality for which the Owner is responsible for paying the costs and the costs may be collected in the same manner as municipal taxes. The costs include interest calculated at a rate of 15% calculated for the period commencing on the day that the Municipality incurs the costs and ending on the day that the costs, including the interest, are paid in full.
- b) Fines owing to the Municipality that are in default pursuant to section 69 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, shall be added by the Treasurer to the tax roll for any property in the Municipality for which the Owner is responsible for paying the fine and the fine may be collected in the same manner as municipal taxes.

Offences and Enforcement

Development without Approved Plans

22. A Person who, without having plans or drawings approved in accordance with any of this by-law or section 41 of the *Planning Act*, undertakes any development in the Site Plan Control Area is, pursuant to section 67 of the *Planning Act*, guilty of the offence of contravening section 41 of the *Planning Act*.

Failure to provide or maintain facilities, etc.

23. A Person who undertakes any development in the Site Plan Control Area without providing or maintaining any of the facilities, works or matters described in paragraph 41(7)(a) of the *Planning Act* and that are required by the Municipality under that clause as a condition of approval of a Site Plan is, pursuant to section 67 of the *Planning Act*, guilty of the offence of contravening section 41 of the *Planning Act*.

Failure to Enter into Agreement

24. A Person who undertakes any development in the Site Plan Control Area without an agreement with the Municipality where an agreement is a condition of an approval of a Site Plan is, pursuant to section 67 of the *Planning Act*, guilty of the offence of contravening section 41 of the *Planning Act*.

Penalty Upon Conviction

25. A Person who is convicted of an offence under this by-law or section 41 of the *Planning Act* is liable to any remedy or penalty prescribed by section 67 of the *Planning Act*.

Repeal

- 26.
- a) By-law 62-2022 and any amendments to that by-law are repealed. The site plan control area designated under By-law 62-2022 is continued under this by-law and any approvals granted pursuant to that by-law and any amendment thereto are continued as though they were not repealed.
 - b) Where a by-law is repealed by this by-law, the repeal does not:
 - i. revive any by-law not in force or existing at the time of which the repeal takes effect;
 - ii. affect the previous operation of any by-law repealed;
 - iii. affect the operation or the validity of any approvals or agreements approved pursuant to the by-law repealed;
 - iv. affect any right, privilege, obligation or liability acquired, accrued, accruing, or incurred under the by-law so repealed; or
 - v. affect any offence committed against any by-law so repealed or any penalty or forfeiture or punishment incurred in respect thereof; or
 - vi. affect any investigation, legal proceeding or remedy in respect of such privilege, obligation, liability, penalty, forfeiture or punishment.

Short Title

27. This by-law may be referred to as the "Site Plan Control By-law".

Enactment

28. This by-law shall come into force on November 19, 2024.

Read and passed in open session on November 19, 2024.

**Mayor
Tracey Bailey**

**Clerk
Brianna Coughlin**

Schedule “A” to By-law 106-2024

Description of Class or Classes of Development Which Are Excluded

1. Where a development consists of single detached dwellings, duplexes or semi-detached dwellings, site plan control will not apply, except in cases where specifically required by the Municipality’s Official Plan, such as in cases where development is proposed on identified Hazard Land areas (as defined in section 5.4.1. of the Official Plan);
2. Where a development consists of farm operations, farm buildings and the primary residence of the farm operator, site plan control will not apply, except in cases where specifically required by the Municipality’s Official Plan or Municipal Zoning By-law, such as where a large scale commercial greenhouse, an agriculture-related use, an on-farm diversified use, or a home industry is proposed;
3. Where a development consists of Lakeshore municipal works or construction or extension to a municipal building or structure, site plan control will not apply;
4. Where a development consists of the addition of an accessory building up to 43.1 square metres (465.0 square feet) in size, site plan control will not apply.
5. Where a development consists of ten (10) or fewer residential units on a single parcel of land, site plan control will not apply, as per subsection 42 of the Planning Act; except in the prescribed areas where a municipality requires site plan control through provincial regulation:
 - (i) Any part of the parcel of land which is located within 120 metres of a wetland, lake, or river (including creeks and streams); and
 - (ii) Any part of the parcel of land which is located within 300 metres of a railway line including active, heavy rail, but does not include light rail or decommissioned or abandoned railway lines.
6. Where a development is damaged or destroyed by fire or natural hazard or natural causes, it may be replaced or rebuilt without the need for site plan approval provided it is within the same building envelope that existed before damages occurred, and the use remains the same.