

CORPORATION OF THE CITY OF SARNIA

BY-LAW NO. 85 OF 2002

Being a by-law to regulate the use of lands and the character, location and use of buildings and structures within the City of Sarnia, pursuant to Section 34 of the Planning Act.

PREAMBLE

WHEREAS Section 34 of the Planning Act provides that the governing body of a municipal corporation may pass by-laws to regulate the use of lands and the character, location and use of buildings and structures;

AND WHEREAS the Council of the Corporation of the City of Sarnia has recommended that such a by-law be enacted in order to implement the policies and designations contained within the Official Plan for the City of Sarnia and to ensure proper and orderly development within the corporate limits of the City of Sarnia;

AND WHEREAS the Council of the Corporation of the City of Sarnia has deemed it to be in the public interest that such a by-law be enacted;

NOW THEREFORE the Council of the Corporation of the City of Sarnia ENACTS as follows:

PART 1:

INTRODUCTION, **DEFINITIONS** **AND** **GENERAL REGULATIONS**

SECTION 1

INTRODUCTION

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1.1 Title of By-law

This By-law may be cited as "The Zoning By-law".

1.2 Scope of By-law

(1) Lands Subject to By-law

The provisions of this By-law shall apply to all those lands lying within the Corporate Limits of the City of Sarnia.

(2) Conformity with By-law

No building or structure shall hereafter be erected or altered, nor shall the use of any building, structure or lot hereafter be altered, in whole or in part, except in conformity with the provisions of this By-law.

(3) Existing Uses Continued

Nothing in this By-law shall apply to prevent the use of any existing lot, building or structure for any purpose prohibited by this By-law if such lot, building or structure was lawfully used for such purpose or was lawfully in existence prior to the passing of this By-law, so long as it continues to be used for that purpose.

(4) Plans Approved Prior to By-law

Nothing in this By-law shall prevent the erection or use of any building or structure that does not comply with one or more of the provisions of this By-law, if the plans for such building or structure were approved by the Corporation and a building permit was issued prior to the date of passing of this By-law, and was not subsequently revoked, provided that:

- (a) when such building or structure is erected, it shall be used and shall continue to be used only for the same purpose for which the said building or structure was intended when such building permit was issued and shall not be altered in any way except in conformity with the provisions of this By-law; and
- (b) the erection of such building or structure is commenced within six months of the issuance of any such building permit and is completed within 24 months after the erection thereof is commenced.

(5) Compliance with Other Restrictions

This By-law shall not be construed so as to reduce, permit or mitigate any restrictions or regulations lawfully imposed by the Corporation or by any governmental authority having jurisdiction to make such restrictions or regulations.

1.3 Interpretation of By-law

(1) Definitions

In this By-law, unless the context requires otherwise, the definitions and interpretations set out in Section 2 hereof shall apply. Where a term is not defined, its common usage shall apply.

(2) Gender and Number

In this By-law, unless the context requires otherwise, words used in the singular number include the plural, and words used in the masculine gender include the feminine, and vice versa.

(3) **"Shall" Is Mandatory**

In this By-law, the word "shall" is mandatory.

(4) **"Use" and "Occupy"**

In this By-law, unless the context requires otherwise:

- (a) the verb "use" shall include "design to be used", "arrange to be used", "intend to be used", and "permit to be used"; and
- (b) the verb "occupy" shall include "design to be occupied", "arrange to be occupied", "intend to be occupied", and "permit to be occupied".

(5) **Measurements**

(139/2002)

All measurements of length or area used in this By-Law shall be subject to the normal rules of rounding numbers, within the degree of precision specified by the number of digits following the decimal point (if any), so that:

- (a) For a WHOLE NUMBER, measurements of LESS THAN **0.5** shall be rounded DOWNWARD to the next whole unit;
- (b) For a WHOLE NUMBER, measurements of **0.5** AND GREATER shall be rounded UPWARD to the next whole unit;
- (c) For a number having ONE DECIMAL PLACE, measurements of LESS THAN **0.05** shall be rounded DOWNWARD to the next one-tenth unit; and
- (d) For a number having ONE DECIMAL PLACE, measurements of **0.05** AND GREATER shall be rounded UPWARD to the next one-tenth unit.

Ratios and percentage figures shall not be subject to rounding.

1.4 **Schedules and Tables**

All Schedules and Tables attached to this By-law form part of the By-law.

1.5 **Examples and Illustrations**

Examples and illustrations are for the purpose of clarification and convenience, and do not form part of this By-law.

1.6 Administration

This By-law shall be administered by a person designated from time to time by Council as the Zoning Enforcement Officer or such other person as the Council of the City of Sarnia designates.

1.7 Inspection

- (1) The Zoning Enforcement Officer, or any other officer or employee of the Corporation is authorized to enter, at all reasonable hours, upon any property or premises for the purpose of carrying out his duties under this By-law.
- (2) Notwithstanding Clause (1) of this Subsection, no officer or employee of the Corporation shall enter any room or place actually being used as a dwelling unit or part thereof without the consent of the occupier, except under the authority of a search warrant issued under The Provincial Offences Act (R.S.O. 1990), c.P.33, S.158, or any successors thereto.

1.8 Application for Building Permit

In addition to all of the requirements of the Building Code and By-law or any other by-law of the Corporation, no building permit shall be issued in respect of the erection or alteration of a building or structure until the following have been submitted to and approved by the Planning and Building Department as being in compliance with this By-law.

- (1) Two copies of a plan, one copy of which shall be retained by the Planning and Building Department, drawn to scale and showing:
 - (a) the true dimensions of the lot to be built upon or otherwise used;
 - (b) the location of all existing buildings, structures or uses on the lot;
 - (c) the proposed location, grade, height and dimensions of any building, structure or use proposed for such lot; and
 - (d) the proposed location and dimensions of yards, lot grading, landscaped open spaces, parking areas and loading spaces.
- (2) A statement, signed by the owner, disclosing the specific existing or proposed use for each existing or proposed building or structure and containing all information necessary to determine if such existing or proposed building, structure or use conforms to the requirements of this By-law.
- (3) Two copies of a plan showing the ground level of the lot as of the date of the application and as same will be upon completion of the proposed erection or alterations and when the redistribution of all topsoil has been completed.

1.9 Issuance of Building Permits

Notwithstanding the provisions of the Building By-law or any other By-law of the Corporation to the contrary, no building permit shall be issued where a proposed building, structure or alteration to an existing building or structure would contravene in any way one or more of the provisions hereof.

1.10 Requests for Amendments

Every request for an amendment to this By-law shall be accompanied by a completed copy of the appropriate application form provided by the Corporation.

1.11 Risk, Expense and Compliance

The facilities, yards or other matters required by this By-law shall be provided and maintained at the sole risk and expense of the owner of the lands in respect of which such matters are required hereby, and the said owner and/or user shall at all times bear full responsibility for ensuring compliance in all respects with this By-law.

1.12 Violations and Penalties

- (1) Every person who owns or uses any lot, or erects, owns or uses any building or structure in a manner contrary to any requirement of this By-law, or who causes or permits such use or erection, or who violates any provisions of this By-law or causes or permits such a violation, shall be guilty of an offence, and upon conviction therefore, shall forfeit and pay a fine not exceeding \$25,000.00 on a first conviction and \$10,000.00 on a subsequent conviction for each day or part thereof upon which the contravention has continued after the day upon which there was a first conviction.
- (2) Where a Corporation, other than the Corporation of the City of Sarnia, is convicted under this By-law, the maximum penalty that may be imposed is \$50,000.00 for the first conviction and \$25,000.00 for each day or part thereof upon which the contravention has continued after the date on which the corporation is first convicted.
- (3) Any building or structure which contravenes any requirement of this By-law may be removed or altered to comply with this By-law, pursuant to the provisions of the Municipal Act (R.S.O. 1990) or the Planning Act as amended from time to time.

1.13 Remedies

- (1) Where a building or structure is erected, altered, reconstructed, extended or enlarged, or any building or structure or part thereof is used, or any lot is used, in contravention of any requirements or other provisions of this By-law, such contravention may be restrained by action at the instance of any ratepayer or of the Corporation pursuant to the relevant provisions of the Municipal Act (R.S.O. 1990), or the Courts of Justice Act in that behalf.
- (2) Where a person guilty of a violation against this By-law has been directed to remedy such violation and is in default of doing any work thus required, then such work may be done at his expense by the Corporation, at its sole discretion, and the Corporation shall have the unlimited right to recover any expenses thus incurred by action or in like manner as municipal taxes, and such expenses shall be in addition to and not in derogation of any remedy by way of mandamus, injunction or otherwise.

1.14 Severability Provisions

A decision of a Court that one or more of the provisions of this By-law are invalid in whole or in part does not affect the validity, effectiveness or enforceability of the other provisions or parts of the provisions of this By-law.

1.15 Repeal of Existing By-laws

All previous by-laws of the Corporation passed pursuant to Section 34 of the Planning Act or its predecessors, are hereby repealed.