



## REPORT

### PLANNING/BUILDING/ENVIRONMENTAL COMMITTEE

**DATE:** December 12, 2022

**REPORT NO:** PD-82-2022

**SUBJECT:** **Recommendation Report – More Homes Built Faster Act – Bill 23 and Update to Bill 109 – More Homes for Everyone Act**

**CONTACT:** Gerrit Boerema, Senior Planner  
Brian Treble, Director of Planning & Building

#### OVERVIEW:

- On October 25, 2022, the Minister of Municipal Affairs and Housing of Ontario introduced Bill 23, titled the More Homes Built Faster Act.
- This Bill has moved quickly through Committee and readings and has received Royal Assent on November 28<sup>th</sup>, 2022, although portions of the Bill have not yet been enacted.
- The Province has stated that the intent of Bill 23 is to increase housing supply in the Province.
- The Bill has proposed changes to the City of Toronto Act, the Municipal Act, the Conservation Authorities Act, the Development Charges Act, the Ontario Heritage Act, the Ontario Land Tribunal Act, and the Planning Act.
- This report is only intended to be a brief summary of the changes and potential impacts and Township considerations as this Bill is implemented.
- Staff are still learning about this Bill as it is unpacked.
- This report also addresses some changes associated with Bill 109, which received Royal Assent earlier this year.
- The changes that have been given Royal Assent in Bill 109 and Bill 23 significantly changes the planning process and will have significant impacts on the Township.
- In addition to providing this information, staff are recommending that staff be authorized to start an Official Plan Amendment process to amend sections of the Township Official Plan in response to Bill 109 and Bill 23.

#### RECOMMENDATION:

1. That, Recommendation Report PD-82-2022, regarding “More Homes Built Faster Act – Bill 23 and Update to Bill 109 – More Homes for Everyone Act”, dated December 12, 2022, be RECEIVED; and,
2. That, Planning Staff be authorized to commence an Official Plan Amendment to propose amendments to the Township’s Official Plan in response to Bill 109 and Bill 23. A draft of this amendment will be prepared and provided to Committee in advance of Public Notice.

**ALIGNMENT TO STRATEGIC PLAN:****Theme #3 & #6**

- **Strategic, Responsible Growth** - Welcoming new residents and businesses and respecting the heritage and rural identity that people value.
- **Efficient, Fiscally Responsible Operations** - the Township of West Lincoln is a lean organization that uses sustainable, innovative approaches and partnerships to streamline processes, deliver services and manage infrastructure assets.

**BACKGROUND:**

In the last year, the Province of Ontario Ministry of Municipal Affairs and Housing has released two pieces of legislations which have significant impacts on the planning process in Ontario and in the Township, and impact the overall operations of the Township. Bill 109, the More Homes for Everyone Act received Royal Assent on April 14, 2022 and Bill 23, More Homes Built Faster Act has received Royal Assent on November 28, 2022.

The Province has an ambitious objective to build 1.5 million new homes over the next 10 years in Ontario and to accomplish that they have proposed new legislation.

For the sake of having a concise report that highlights the impacts to the Township, a summary of the changes that have greatest impacts to West Lincoln can be found below. The full legislation can be found in the following links.

**Bill 109 – More Homes for Everyone Act (see attached Staff report PD-80-2022)**

Full Legislation: [https://www.ola.org/sites/default/files/node-files/bill/document/pdf/2022/2022-04/b109ra\\_e.pdf](https://www.ola.org/sites/default/files/node-files/bill/document/pdf/2022/2022-04/b109ra_e.pdf) :

**Planning Act*****Refund of Fees***

Bill 109 will require municipalities to provide refunds for zoning bylaw amendment and site plan application fees where no decision is made during the statutory timeframe as of July 1<sup>st</sup>, 2023 (formerly January 1<sup>st</sup>, 2023). The statutory timelines and associated refunds can be found in the table below:

	<b>No Refund</b>	<b>50% Refund</b>	<b>75% refund</b>	<b>100% Refund</b>
<b>ZBA</b>	Decision made within 90 days	Decision made within 91 and 149 days	Decision made within 150 and 209 days	Decision made 210 days or later
<b>OPA/ZBA</b>	Decision made within 120 days	Decision made within 121 and 179 days	Decision made within 180 and 239 days	Decision made 240 days or later
<b>SP</b>	Decision made within 60 days	Decision made within 61 and 89 days	Decision made within 90 and 119 days	Decision made 120 days or later

Currently, the typical zoning amendment process in West Lincoln takes a minimum of 3 months. This includes a 20-30 day circulation and public commenting period, holding of a public meeting, and presentation of recommendation report the following month if there are no major issues. In most cases there are issues that need to be addressed prior to a recommendation being prepared, which can add several months to the approval process. In order to meet the time frames and avoid fee refunds for Zoning By-Law Amendments (ZBA) and Official Plan Amendments (OPA), staff will have to present a recommendation report at the same Committee or Council meeting that a public meeting is held. Additionally, staff may potentially have to recommend holding provisions or denial of applications, as the time frames do not give opportunity for negotiation and revision to applications.

Site Plan (SP) approval will have to impose more conditions, such as engineering review, which is currently done prior to approval, but now will need to be completed following site plan approval. Staff are still consulting with other municipalities and a consultant on how to deal with Site Plan Approval. Another component is the need to address concerns and clear complete submission requirements during the pre-consultation process.

Regional Planning Staff, local municipal area planners and a planning consultant have been working on strategies of how to improve planning act timelines for application as to be compliant with Bill 109.

#### ***Site Plan Delegation***

Bill 109 has Required that site plan control decisions be delegated to staff as of July 1<sup>st</sup>, 2022. Council has delegated full site plan approval authority to the Director of Planning or Designate in October, 2022, and authority to enter into site plan agreements.

#### ***Conditions of Draft Plan Approval***

Bill 109 creates the framework for the establishment of a regulation-making authority to determine what cannot be required as a condition of draft plan approval. The regulations not yet released, but will most likely impact what Conditions the Township can impose on developers as part of draft plan of subdivision approval.

#### ***Community Benefit Charge Bylaws***

Bill 109 also has established a review process for community benefit charge (CBC) bylaws. CBC's are a new tool in the Planning Act which replaces the former Section 37 of the Planning Act, Height and Density Bonusing. This is to help cover municipal costs for higher density in communities. The Township has not yet based a Community Benefit Charge Bylaw.

#### ***Minister Powers***

Bill 109 has also given more powers to the Minister of Municipal Affairs and Housing regarding certain official Plan amendments and new official plans and empowering the Minister to make regulations for the use of surety bonds as security for conditions imposed by a municipality on planning approvals.

**Bill 23 - More Homes Built Faster Act**

Full Legislation: [https://www.ola.org/sites/default/files/node-files/bill/document/pdf/2022/2022-11/b023ra\\_e.pdf](https://www.ola.org/sites/default/files/node-files/bill/document/pdf/2022/2022-11/b023ra_e.pdf)

**Planning Act*****Third Party Appeals***

Bill 23 has made changes to third party appeals. Initially Bill 23 proposed an absolute restriction on third-party appeals to the Ontario Land Tribunal. An example of a third party appeal would be an appeal lodged by someone other than the applicant and the approval authority. Under the final legislation that has received royal assent, third party appeals will still be permitted for official plan amendments and zoning bylaw amendments, however, for minor variances and consents, third party appeals rights will continue to be limited to the Minister, a 'specified person' and public bodies with interest in the matter. Specified person only includes certain utility companies, telecommunication providers and railways within 300 metres of the subject lands to which the application has been applied. Most members of the public and even the Region and NPCA would no longer be permitted to appeal certain decisions from Township Committee of Adjustment as a Third party.

***Removal of 2-year prohibition***

The Province has repealed a provision that allowed the Municipalities to prohibit OPAs, ZBAs and minor variance within two years of the plan or bylaw coming into effect. The Township waived all 2 year prohibitions when passing the Township's Zoning Bylaw.

***Removal of Planning Responsibilities***

The Planning Act has been amended to provide two different classes of upper-tier municipalities; those that have planning responsibilities and those that do not. New regulations have been made to provide lower-tier municipalities with more planning functions. A transitional section to the planning act will be provided (Section 70.13). This is one of the more significant changes to the Planning Act and how the Township will process planning applications. The Region of Niagara will no longer be involved in the Planning Act approval process for lower tier municipalities Official Plans, Official Plan Amendments and Plans of Subdivision. The Township currently relies on Regional Planning Staff expertise specifically regarding environmental and archaeological policy. The Township will need to explore how environmental policy will be reviewed in house under Bill 23.

***Site Plan Control***

Bill 23 now exempts housing developments with 10 or less units (with exception of land lease communities) from site plan approval. Additionally, exterior design is no longer a matter of site plan control. The Township believes that there will be other opportunities, such as development agreements, that can still be imposed to provide some regulations over the development, such as municipal servicing. The Township will not be able to implement exterior design within site plan approval or agreements.

**Parkland Requirements**

The Province is proposing additional reductions to the amount of land the municipality can require as part of park land dedication, as well as have exempted affordable and attainable residential units from parkland requirements. Municipalities will also be required to spend a minimum of 60 per cent of their cash-in-lieu of parkland account every year. Currently the Township has a parkland dedication bylaw that requires a flat rate of 5% of the land for parkland dedication purposes, or 5% cash in lieu of parkland dedication.

**Gentle Density**

On an urban residential lot zone for a single home, the bill would allow for up to three residential units to be created as-of-right without a zoning by-law amendment. Development would be exempt from parkland requirements and development charges, as well as other municipal requirements such as parking. *Many areas within Smithville are zoned to only permit a single detached residential dwelling and up to one additional secondary unit. This would allow for an additional secondary unit to be on the property. This has potential ramifications in Smithville Relating to the provision of parking with the potential to further increase on street parking issues.* This would also impact servicing capacity and may limit the ability for typical infill or redevelopment opportunities.

**Draft Plan of Subdivisions**

Bill 23 has removed the mandatory public meeting requirement for a draft plan of subdivision. Municipalities can now choose to hold a public meeting in advance of making a decision. Township Planning Staff will continue to hold public meetings for subdivisions as staff believe it is an important part of the public consultation process, and typically are combined with the statutory public meeting for a related zoning bylaw amendment as well.

**Development Charges Act, 1997**

New sections are proposed to be added to the Development Charges Act exempting the following units from development charges:

**1. Affordable residential units and attainable residential units**

Affordable and attainable are both being defined in the Act. In summary, an affordable unit is one that is priced (or rented) at no greater than 80% of the average purchase price (Province to create a bulletin to provide the average purchase price). This will have major implications on the ability for the Township to collect development charges. As an example, in an area where the average home price is \$1,000,000, a house priced at \$800,000 would be deemed affordable. The average sale price for homes in 2021 in Smithville was nearly \$800,000.00. Eighty per cent of that number is \$640,000.

It is not yet clear what an Attainable residential unit will be, as prescribed information has not yet been provided, but this would further limit the Township's ability to collect development charges to pay for growth.

**2. Non-profit housing developments**

There are additional exemptions are for non-profit housing and inclusionary zoning residential units.

**3. Inclusionary zoning residential units**

Inclusionary zoning is a regulatory tool that allows municipalities to require affordable housing units in new residential developments. Inclusionary zoning has been around for a number of years, and at one point every municipality in Ontario was able to adopt inclusionary zoning regulations, however, currently inclusionary zoning is only permitted within Major Transit Station Areas, and does not have an immediate impact to the Township.

**Extension of Development Charge Bylaws**

Under the current regulations, DCB's expires after 5 years, however, the Province is proposing to increase this to 10 years.

**Reduction in DC Following an Enactment of a DCB**

Currently, when a development charge is passed by the Township, the full new development charge is applied on a new dwelling for example. Bill 23 will now require that Development charges be reduced in the first four years of implementation after a new bylaw is passed:

- Year 1 – DC no more than 80%
- Year 2 – DC no more than 85%
- Year 3 – DC no more than 90%
- Year 4 – DC no more than 95%
- Year 5 -10 – 100%

These reductions apply retroactively to DC bylaw passed on or after January 1, 2022, unless a building permit for the development was already issued prior to the day Bill 23 received Royal Assent (November 28, 2022).

The proposed changes to the application of development charges and the phasing in of Development charges will have a significant impact on the ability for the Township to pay for infrastructure related to growth. The mantra has always been that 'Growth pays for Growth', however, under Bill 23, necessary infrastructure costs in relation to growth will most likely need to be covered by the tax base.

**Proposed Amendments to the Greenbelt Plan and Oak Ridges Moraine Conservation Plan**

The Province has approved the removal of 7,400 acres from the greenbelt area to accommodate 50,000 new homes, and has added 7,400 acres of Urban River Valley Areas to the Greenbelt in Addition to 2,000 acres from the Paris Galt Moraine lands. Approvals would be required by the end of 2023 and construction by 2025 or the lands would be returned to Greenbelt. The Township has approximately 400 hectares of lands within the Greenbelt, north of Young Street which remain unchanged.

**Ontario Land Tribunal Act**

The amendments to the Ontario Land Tribunal Act mostly deal with process related matters but does also provide additional language to the statute to clarify that the Tribunal has the power to order an unsuccessful party to pay a successful party's costs. In addition, appeals dealing with housing projects will be given scheduling priority.



***Conservation Authorities Act***

Bill 23 also has made significant changes to the role of the conservation authorities through the removal of ability to review and comment on development Applications. All 34 of the Province's Conservation Authorities would be subject to new limits on what they are permitted to comment on – primarily flooding and other natural hazards). The Ministry now has power to override a Conservation Authority on such matters as required fees, permits, and conditions, and permit development in hazard lands, wetlands, river or stream valleys etc. The Bill also removes the Conservation Authorities ability to comment on planning application outside of their core mandate of natural and flood hazard protection. Currently most planning applications are circulated to the Niagara Peninsula Conservation Authority and the Region of Niagara for review relating to the environment. Under Bill 23, many of these responsibilities will now be with the Township.

***Ontario Heritage Act***

Bill 23 has now required that municipalities can only have properties on the Ontario Heritage Register for a period of up to two years. Should the property not proceed to full designation, the property will be removed from the register and cannot be listed again within 5 years. Council further cannot designate a property that is not on the heritage register within 90 days of the initiation of an Official Plan Amendment, Zoning bylaw amendment or plan of subdivision application on a property.

**FINANCIAL IMPLICATIONS:**

Bill 109 and Bill 23 both have significant financial implications as Bill 109 requires refunds of planning fees if decisions are not made on certain applications within certain timeframes, and potentially will increase legal costs as the number of appeals the Township receives may increase.

Further, Bill 23 significantly hampers the Township's ability to pay for necessary growth related infrastructure projects through the increased number of residential units now exempted from Development Charges and as a result of the four year phase in of development charges.

**INTER-DEPARTMENTAL COMMENTS:**

This report has been circulated to the Township Finance, Public Works, Clerks and Fire Departments for information, as many of the changes made through Bill 109 and now Bill 23 will go beyond the Township Planning Department.

**CONCLUSION:**

Bill 109 and Bill 23 have significantly changed the Planning and Development process in Ontario in order to facilitate the construction of more housing. Township Staff are working on streamlining development approvals to meet the requirements set out in Bill 109, such as the delegation of site plan approval to Planning Staff, and are working on strategies to deal with the more recent changes in Bill 23.

Planning Staff are recommending that an Official Plan Amendment process be started to address the new regulations, including updating Section 18 of the Official Plan which outlines the requirements for complete applications. A draft of this Official Plan Amendment will be provided to Committee and Council prior to issuance of the public notice.

Staff continue to understand Bill 23 as additional regulations and timelines are released to understand the impact on the Township and how to adapt the planning and development review process to meet the new Provincial expectations.

**ATTACHMENTS:**

1. Bill 109 Staff Report – PD-80-2022

**Prepared & Submitted by:**

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**Gerrit Boerema, MCIP RPP**  
**Senior Planner**

**Approved by:**

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**Bev Hendry**  
**CAO**



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**Brian Treble, MCIP RPP**  
**Director of Planning & Building**





## REPORT

### PLANNING/BUILDING/ENVIRONMENTAL COMMITTEE

**DATE:** September 12, 2022

**REPORT NO:** PD-80-2022

**SUBJECT:** **Recommendation Report – Bill 109 – Establish Developmental Control**

**CONTACT:** Brian Treble, Director of Planning & Building

#### OVERVIEW:

- As the Planning/Building/Environmental Committee is aware, on April 14<sup>th</sup>, 2022, The Provincial Government gave Royal Assent to a Bill (Bill 109) that resulted in many changes that were promoted as streamlining or expediting the planning approval process, with the goal of obtaining planning/housing approvals quicker.
- Many parts of Bill 109 come into effect on July 1, 2022 including a requirement for approval authorities to delegate site plan control decisions to staff.
- In order to be proactive, staff reached out to a private sector planning firm, MHBC Planning, and asked this firm to assist in guiding us on how to become Bill 109 compliant.
- Staff report PD-48-2022 was presented at the June 13, 2022 Planning/Building/Environmental Committee Meeting and ratified at the June 27<sup>th</sup>, 2022 Council meeting.
- As a result of preliminary comments, by MHBC Planning, staff advise that a new by-law be passed to delegate site plan approval authority to staff, as well as, authority to sign site plan agreements. Parts of this authority already exist, but approval of the by-law will place all authority in one by-law and previous by-laws will be repealed through a future report
- This report represents another step forward in the implementation of Bill 109 within the Township of West Lincoln

#### RECOMMENDATION:

1. That, Recommendation Report PD-80-2022, regarding “Bill 109 – Establish Developmental Control”, dated September 12, 2022, be RECEIVED; and,
2. That, a by-law be passed to establish Development Control, to delegate approval authority and establish criteria within the Township of West Lincoln.

**ALIGNMENT TO STRATEGIC PLAN:****Theme #3 and #6**

- Strategic, Responsible Growth
- Efficient, Fiscally Responsible Operations

**BACKGROUND:**

*Bill 109, the More Homes for Everyone Act, 2022*, was passed by the Provincial of Ontario and received royal assent on April 14, 2022 and many parts of the Act came into effect on July 1, 2022. Many changes that affected planning approval processes were included in the bill, including timelines for planning approvals or fee rebates must occur and new delegation of authority to staff for site plan decisions.

**CURRENT SITUATION:**

On June 13, 2022, report PD-61-2022 was presented and approved and authorized the hiring of MHBC Planning to undertake a review of Township Planning processes and to assist with process changes that will help address the timeline imposed in Bill 109. This review is ongoing.

Similarly, the Region has now hired MHBC Planning to undertake a similar review of the implications of Bill 109 to the *Planning Act*, some of which have taken effect on July 1, 2022. This includes a required change to the site plan process that now requires the following:

- Municipalities must delegate authority to approve site plan applications to a designated authorized person (officer, employee, or agent of the municipality). At present, municipal council may, but is not obligated to, delegate its authority to approve site plan applications.
- A new complete application process for site plan applications is proposed. This process is like the complete application process that applies to official plan amendment applications and zoning bylaw amendment applications.
- The timeline to appeal a site plan application for non-decision is increased from 30 days to 60 days

As a result of these changes, staff propose that a new Site Plan Authorizing By-law be passed such as the one attached to this report.

This by-law to delegate site plan approval authority, includes the signing of the site plan agreement, to staff.

**FINANCIAL IMPLICATIONS:**

The delegation of site plan approval and decisions to staff may result in a more streamlined process, reducing staff's time in preparing site plan authorization reports to Committee and Council.

**INTER-DEPARTMENTAL COMMENTS:**

Regional Planning staff along with lower tier municipal planning staff have had one workshop to discuss Bill 109 changes and how to improve the development review process. Further meetings are planned to develop an approach that is similar across the Region.

Township Legal Counsel has been and will continue to be involved in this process and staff have reached out for further consultation regarding this matter. This may result in further changes to the by-law prior to the September 26<sup>th</sup>, 2022 Council meeting.

In the meantime, this change is one further step forward in implementing Bill 109.

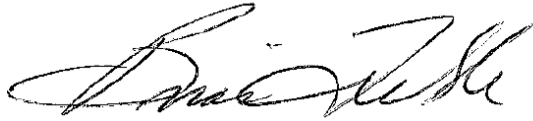
**CONCLUSION:**

Staff recommend the passage of the attached Site Plan Control By-law that delegates approval authority to staff as one more step forward in the implementation of Bill 109.

**ATTACHMENTS:**

1. By-law to Establish Developmental Control in the Township of West Lincoln

**Prepared & Submitted by:**



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**Brian Treble**  
**Director of Planning & Building**

**Approved by:**



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**Bev Hendry**  
**CAO**

## THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN

### BY-LAW NO. 2022-XX

#### A BY-LAW TO ESTABLISH DEVELOPMENT CONTROL, TO DELEGATE APPROVAL AUTHORITY AND ESTABLISH CRITERIA WITHIN THE TOWNSHIP OF WEST LINCOLN.

**WHEREAS** Section 41(2) of the Planning Act, R.S.O. 1990, c. P.13 allows for an Official Plan to describe an area as a proposed site plan control area, the council of the local municipality in which the proposed area is situate may, by by-law, designate the whole or any part of such area as a site plan control area;

**AND WHEREAS** the Official Plan of the Township of West Lincoln describes land uses and areas for site plan control;

**AND WHEREAS** the More Homes for Everyone Act, 2022 (Bill 109) amended the Planning Act to require municipalities, which have adopted a site plan control by-law, to designate an authorized person(s) to approve site plan applications (S. 41(4.0.1)), to allow Council to require by by-law applicants to consult with the municipality prior to submitting an application (S. 41(3.1)), and to define any class or classes of development that may be undertaken without the approval of site plan (S. 41(13)).

**NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN HEREBY enacts as follows:**

1. THAT the whole of the Township of West Lincoln is hereby designated as an area of site plan control pursuant to Section 41 of the Planning Act, 1990.
2. THAT no person shall undertake any development in any area designated under site plan control unless Subsection 41(4) of the Planning Act has been complied with.
3. THAT the authority of the Council of the Township of West Lincoln under Section 41 of the Planning Act to approve and decide upon site plans and agreements, including the authority to impose conditions of approval, is hereby delegated to the Director of Planning and Building, or designate, except for those classes outlined in Clause 5 of this By-law. Such authority delegated to the Director of Planning and Building, or designate, shall be carried out and implemented as provided for in Section 41 of the Planning Act.
4. THAT in the event the Director of Planning and Building is absent for any reason, the said authority of Council is delegated to the person or persons designated in writing by the Director of Planning and Building to act as the said Director during their absence.
5. THAT the authority of the Council of the Township of West Lincoln under Section 41 of the Planning Act to approve and decide upon site plans and agreements, including the authority to impose conditions of approval, is hereby delegated to the Chief Building Official of the Township of West Lincoln, for the following classes of development:
  - a) Single-detached dwellings;
  - b) Semi-detached dwellings;
  - c) Duplex Dwellings; and
  - d) Buildings accessory to single-detached dwellings, semi-detached dwellings and duplex dwellings.
  - e) Swimming Pools
  - f) Greenhouses less than 4,000 sq. metres in size and not used for cannabis production.
6. THAT in the event the Chief Building Official is absent for any reason, the said

authority for the classes of development listed is delegated to the person or persons designated in writing by the Chief Building Official to act as the said Building Official in their absence.

7. THAT, prior to submitting plans and drawings for approval under Section 41 of the Planning Act, the applicant shall consult with the appropriate staff in accordance with Subsection 41(3.1) of the Planning Act, including the attendance of a pre-consultation meeting and provide the prescribed material as required at the pre-consultation meeting and as required in the site plan control approval application.
8. THAT Site plans, elevations and cross-section plans shall be required for every residential building or addition and expansion, including for buildings containing less than twenty-five (25) dwelling units.
9. THAT in accordance with Section 41(4)2 of the Planning Act, the drawings showing plans, elevation and cross-section for each building to be erected must be sufficient to display:
  - a) Massing and conceptual design;
  - b) The relationship of the proposed building to its surroundings;
  - c) The provision of features to which the public has access;
  - d) Matters relating to exterior design;
  - e) The sustainable design elements on any adjoining highway under a municipality's jurisdiction; and
  - f) Facilities designed to have regard for accessibility for persons with disabilities.
10. THAT the Mayor and Town Clerk are hereby authorized to execute an agreement with the owner, after the approval has been granted in accordance with this By-law and the owner has signed the agreement.
11. THAT the following classes of development are exempt from the provisions of this By-law:
  - a) Agricultural buildings accessory to a farm operation and located on the same lands, used for the purpose of housing livestock, farm products or farm machinery, except for cannabis production facilities.
12. THAT this By-law shall come into force and effect upon the passing of this by-law.

**READ A FIRST, SECOND AND THIRD  
TIME AND FINALLY PASSED THIS  
26<sup>th</sup> DAY OF SEPTEMBER 2022.**

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**DAVE BYLSMA, MAYOR**

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**JOANNE SCIME, CLERK**