

THE CORPORATION OF THE TOWNSHIP OF NORTH DUNDAS
BY-LAW No. 2020-23

Being a By-law to Establish a Growth Management and Development Allocation Process for the Water Distribution and Sewage Treatment Systems of The Corporation of the Township of North Dundas.

WHEREAS section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25 (hereinafter referred to as the “*Act*”) authorizes The Corporation of The Township of North Dundas (hereinafter the “*Township*”) to pass by-laws respecting the production, treatment, storage and distribution of water throughout the *Township*;

AND WHEREAS section 11 of the *Act* authorizes the *Township* to pass by-laws respecting the collection and treatment of sanitary sewage throughout the *Township*;

AND WHEREAS the *Township* desires to establish a Growth Management Development Allocation System in the *Township* to direct the allocation of *Water Capacity* and *Sanitary Sewer Capacity* in accordance with the purpose and intent of the Official Plan of the United Counties of Stormont, Dundas and Glengarry.

AND WHEREAS the availability of *Water Capacity* and *Sanitary Sewer Capacity* may vary from year to year, it is in the best interests of the residents of the *Township* that *Water Capacity* and *Sanitary Sewer Capacity* be allocated in a manner which is consistent with the *Township*'s development priorities as set out herein;

AND WHEREAS the *Township* deems it appropriate that the issuance of all building permits in the Villages of Chesterville and Winchester shall be subject to the provisions of this By-law;

NOW THEREFORE the *Council* of The Corporation of the Township of North Dundas enacts as follows:

1.0 SHORT TITLE

1.1 That this By-law shall be known as the “Water and Sanitary Sewer Capacity Allocation By-law”.

2.0 DEFINITIONS

2.1 For the purposes of this By-law, the following definitions shall apply:

Act means the *Municipal Act, 2001*, S.O. 2001, c.25.

Annual Development Allocation shall mean the total number of units of *Water Capacity* and the total number of units of *Sanitary Sewer Capacity* which may be allocated for development.

Applicant means the *Owner* of *Land* or the authorized agent of the *Owner*.

Capacity Allocation means the granting of *Water Capacity*, *Sanitary Sewer Capacity* or both.

Capacity Allocation Date means the date which is sixty (60) days after any Application Date or such other date to which the *Capacity Allocation Date* may be extended in accordance with this By-law.

Council means the Municipal Council of The Corporation of the Township of North Dundas;

Development Application means an application for the development of *Land* or building(s) which shall include but not be limited to:

- a) an application for a connection to the *Water Distribution System* or *Sewage Treatment System* for an existing building or structure;
- b) the approval of a condominium under Section 50 of the Condominium Act or draft approval of a plan of subdivision under Section 50 of the Planning Act;
- c) any change in use that requires an occupancy permit under Section 34(6) of the Planning Act and which increases the demand for *Water Capacity* and/or *Sanitary Sewer Capacity*;
- d) approval of a Site Plan Agreement under Section 41(7) of the Planning Act which increases the demand for *Water Capacity* and/or *Sanitary Sewer Capacity*; or
- e) any other development of a property which requires connection to the *Water Distribution System* or the *Sewage Treatment System* or an increase in the demand for *Water Capacity* or *Sanitary Sewer Capacity* which has not already been provided for in this By-law;

Land shall mean any existing lot of record and any new lot of record created by Transfer/Deed of Land, Plan of Subdivision or Condominium Plan;

Owner or Owners means the person(s) who is/are the registered Owner(s) of *Land*;

Project means a development Project which requires *Water Capacity*, *Sanitary Sewer Capacity* or both;

Sanitary Sewer Capacity means a unit of capacity within the *Sewage Treatment System* as defined in Schedule A of the By-law;

Sewage Treatment System means the sanitary sewage collection and treatment system of the *Township*;

Township shall mean the Corporation of The Township of North Dundas;

Water Capacity means a unit of capacity within the *Water Distribution System* as defined in Schedule A of the By-law;

Water Distribution System means the water distribution system of the *Township*;

3.0 BACKGROUND STATEMENTS

- 3.1 It is the intent of this By-law that the *Township* attain a sustained steady rate of development and associated population growth in the *Township* within the available capacity of the water and sanitary sewer systems.
- 3.2 The water and sanitary sewer infrastructure are approaching maximum capacity and as such a development allocation system must be maintained.
- 3.3 All future development in the *Township* shall be required to satisfy the requirements of this by-law to ensure proper use of the available *Water Capacity* and *Sanitary Sewer Capacity* as determined from time to time.
- 3.4 There is an existing and growing competition for capacity between residential and non-residential development in the urban area.

- 3.5 The *Township* shall encourage development that can provide the necessary infrastructure and services to accommodate new residential development and attract new non-residential development. The *Township* shall make use of available infrastructure and minimize the need for public funds to assist with new development whenever possible.
- 3.6 There is a need for affordable housing in the urban area for those employed in the community and for groups such as the elderly persons.

4.0 WATER DISTRIBUTION SYSTEM AND SEWAGE TREATMENT SYSTEM CAPACITY

- 4.1 The *Township* shall, at least annually, determine the available units of *Water Capacity* and *Sanitary Sewer Capacity*. The available *Water Capacity* and *Sanitary Sewer Capacity* shall represent the *Annual Development Allocation*.
- 4.2 After the effective date of this By-law, no application for a building permit which requires *Water Capacity* or *Sanitary Sewer Capacity* shall be accepted by the *Township* until such *Applicant* receives a *Capacity Allocation* in accordance with the provisions of this By-law.
- 4.3 After the effective date of this By-law, no approval or draft approval (as applicable) for a *Development Application* which requires *Water Capacity* or *Sanitary Sewer Capacity* shall be granted by the *Township* until such *Applicant* receives a *Capacity Allocation* in accordance with the provisions of this By-law.

5.0 DETERMINATION OF THE DEVELOPMENT ALLOCATION

- 5.1 On or before January 31 of each year, *Council* shall approve the *Annual Development Allocation*.
- 5.1.1 The Public Works Department shall present a report to *Council* which provides the appropriate *Annual Development Allocation* to be available for development.
- 5.1.2 Staff shall not, in any year, recommend the allocation of *Water Capacity* or *Sanitary Sewer Capacity* which exceeds the available capacity set out in the *Annual Development Allocation*.
- 5.2 The determination of what constitutes a type of dwelling unit and allocation shall be in accordance with Schedule "A" attached hereto and forming part of this by-law.
- 5.3 The number of commercial sewer units will be determined as follows:
Estimated sanitary sewage flow on Table 8.2.1.3.B of the Ontario Building Code (OBC).

6.0 APPLICATION PROCEDURES

- 6.1 Where the development of land or building(s) is being proposed as defined in the *Development Application*, it shall obtain approval in accordance with this by-law prior to the issuance of the building permit.
- 6.2 Application for *Capacity Allocation* - The application for *Capacity Allocation* shall be completed by using the designated form available from the *Township*.
- 6.3 Determination of Completeness or Request for Additional Information - The Public Works Department shall review for completeness all applications for

Capacity Allocation. Within ten (10) days after the Application Date, the Public Works Department shall advise the *Applicant* if the application is deemed complete or incomplete. Should the application be deemed incomplete, the Public Works Department shall indicate on the notice what additional information is required to properly evaluate the application. Failure to submit the requested additional information within thirty (30) days from the date the notice is mailed shall disqualify the application.

- 6.3.1 If any question arises as to the nature of any *Ownership* interest for any property, the *Applicant* shall provide all requested information to determine the nature of such *Ownership* interest.
- 6.4 Changes in *Capacity Allocation* Application - Once submitted, an *Applicant* may not alter its application to request an increased number of *Capacity Allocations* but may reduce the number of *Capacity Allocations* being sought.
- 6.5 Fee for Review of Application - Each *Capacity Allocation* application shall be accompanied by a processing fee of Five Hundred Dollars (\$500.00). Non-successful applications shall be refunded \$100.00. For infill and basement *Capacity Allocation* application, the processing fees shall be Two Hundred Dollars (\$200.00). Applications for *Capacity Allocation* for not more than one (1) unit of either *Water Capacity* or *Sanitary Sewer Capacity*, or both, shall be Two Hundred Dollars. The application fee shall be in addition to all other municipal development processing and permit fees.
- 6.6 *Capacity Allocations* Recommendations and Decision
 - 6.6.1 Within sixty (60) days of receipt of the completed Application, the Public Works Department shall provide notification of approval or denial of the application by *Council*.
 - 6.6.2 Where additional time is needed to fully evaluate the applications, the date described in 6.5.1 above may be extended for up to thirty (30) days.
 - 6.6.3 Staff shall determine the available *Capacity Allocations* and make a recommendation to *Council*. Allocation decisions in this regard shall be final.
- 6.7 Withdrawal of Application - An *Applicant* may elect to withdraw an application for *Capacity Allocation* at any time prior to *Council*'s decision on the *Capacity Allocation* and 50% of the application fee paid by the *Applicant* shall be refunded. Where an application is withdrawn after the *Capacity Allocation* has been made, the application fee shall not be refunded.
- 6.8 Allocation to *Land* and *Project*- As of the date of adoption of this By-law, a *Capacity Allocation* can only be allocated to the *Land* and the *Project* which is the subject of the application and not to an *Applicant* or to another *Project* on the same *Land*. A *Capacity Allocation* is not allocated to the *Owner* of *Land* and as such is not transferable.

EVALUATION OF APPLICATIONS FOR CAPACITY ALLOCATIONS

- 6.9 When evaluating the *Projects* which should receive *Capacity Allocation*, the Planning and Public Works Department and *Council* shall evaluate the applications for *Capacity Allocation* taking into consideration the following factors which are set out in no particular order:

- 6.9.1 priorities as set out in the Official Plan of the United Counties of Stormont, Dundas and Glengarry;
- 6.9.2 the availability of existing infrastructure;
- 6.9.3 the availability of services (schools, churches, emergency services etc...);
- 6.9.4 the availability of existing commercial development;
- 6.9.5 *Projects* which do not require any financial contribution from the *Township*;
- 6.9.6 the reduction of the *Township's* financial obligations in *Projects*;
- 6.9.7 the *Township's* economic priorities; and
- 6.9.8 any other factor which is deemed relevant by *Council*.
- 6.9.9 affordable housing as defined by Provincial Policy Statement
- 6.9.10 significant new employment opportunities other than construction or “spin off” jobs;

7.0 EXPIRATION OF CAPACITY ALLOCATION

- 7.1 All *Capacity Allocations* granted pursuant to this By-law shall expire two (2) years after the date it is awarded unless:
 - 7.1.1 a building permit has been applied for in relation to such *Capacity Allocation*; or
 - 7.1.2 an agreement has been entered into with respect to the particular *Development Application* and construction of services (if applicable) has commenced.

The expiration of the *Capacity Allocation* shall apply to all *Water Capacity* and/or *Sanitary Sewer Capacity* allocated to a *Project*.

- 7.2 Where a building permit has been applied for, the *Capacity Allocation* shall expire in conjunction with the expiration of the building permit.
- 7.3 *Council* may, in its sole discretion, grant a temporary exemption to the provisions of sections 8.1 and 8.2 of this By-law where a *Development Application* has been appealed to the Local Planning Appeal Tribunal “LPAT” or to a court of competent jurisdiction. In such event, the *Capacity Allocations* in question shall expire six (6) months after such appeals have been finally disposed of.
- 7.4 *Council* may, in its sole discretion, grant a temporary exemption to the provisions of sections 8.1 and 8.2 of this By-law where *Council* deems appropriately by resolution.
- 7.5 Requests for a temporary exemption shall be subject to a Two Hundred Dollar (\$200.00) fee.

8.0 TIMING FOR USE OF THE ALLOCATION

- 8.1 No *Owner* shall receive additional *Water Capacity* and *Sanitary Sewer Capacity* until such time as building permits have been issued for 80% of the previous allocations to the *Land* or *Project*. At that time the *Owner* shall

be entitled to request additional units of water and wastewater subject to this policy.

- 8.2 *Council* may, in its sole discretion, grant a temporary exemption to the provisions of sections 9.1 of this By-law based on past performance of the developer.

9.0 PRIOR ALLOCATIONS OF WATER CAPACITY AND SANITARY SEWER CAPACITY

- 9.1 All allocations of *Water Capacity* and/or *Sanitary Sewer Capacity* granted by the *Township* prior to the effective date of this By-law shall expire two (2) years after the effective date of this By-law unless:

- 9.1.1 a building permit has been applied for in relation to such *Capacity Allocation*; or
- 9.1.2 an agreement has been entered into with respect to the particular *Development Application* and construction of services (if applicable) has commenced.

The expiration of the allocation shall apply to all *Water Capacity* and/or *Sanitary Sewer Capacity* allocated to a particular *Project*.

- 9.2 Where a building permit has been applied for, the allocation shall expire in conjunction with the expiration of the building permit.
- 9.3 *Council* may, in its sole discretion, may grant a temporary exemption to the provisions of sections 10.1 of this By-law.
- 9.4 No person shall exceed the allocated capacity that was granted.
- 9.5 In the event that the allocations to the *Land* or *Project* is being altered due to a change in the type of building, an application with accompanied fees shall be submitted to the Department of Public Works for review prior to the issuance of the building permit. The Director of Public Works may redistribute the current allocation but cannot increase the allocation to that phase without approval from Council.

10.0 REVIEW AND MONITORING

- 10.1 An annual review report shall be presented by the Director of Public Works Department at the end of each calendar year. The report will provide the number of *Capacity Allocations* (detailing residential, commercial, industrial and institutional). Residential allocation is as per Schedule A.

11.0 EXEMPTIONS

- 11.1 This By-law shall not apply to:
- 12.1.1 The construction of accessory buildings which may include but not be limited to detached garages, barns, garden sheds and similar buildings provided that there is no increase in the demand for water or sewage capacity from the amount existing at the time of the application for a building permit.
- 12.1.2 Any change in use or renovation, alteration, addition, intensification or enlargement of a building where there is no increase in the demand for water or sewage capacity from the amount existing at the time of the application for a building permit.

12.2 Redevelopment - An *Owner* or *Applicant* who has secured the necessary approvals, may demolish and replace an existing building or restore, reconstruct or replace an established structure in accordance with applicable by-laws and resolutions and not be subject to the provisions of this by-law provided that upon redevelopment of the said building, there shall be no increase in the demand for water or sewage capacity.

12.2.1 The exemptions set out in Subsection 12.1 of this By-law shall only be available for a period not exceeding three (3) years from the date of issuance of a demolition permit failing which it shall be deemed to be a new construction and a new *Capacity Allocation* shall be required in order for such redevelopment to proceed.

12.2.2 Where a redevelopment or change in use results in unused capacity from that which was used prior to the redevelopment or change in use, the unused capacity shall remain available to the *Land* for a period of three (3) years.

12.3 Any dispute as to whether a use or building is entitled to an exemption or part-exemption shall be determined by *Council* in its sole discretion.

13.0 OTHER BY-LAWS AND REGULATIONS

13.1 Nothing in the By-law shall exempt any person from complying with the requirements of any other applicable By-law, agreement or legislation.

14.0 APPLICATION

14.1 This By-law shall be applicable to all *Land* within the Urban Service Limits of Winchester and Chesterville as contained in the Official Plan of the United Counties of Stormont, Dundas and Glengarry.

15.0 EFFECTIVE DATE

15.1 This By-law shall come into force and effect on the date of its passing.

READ and passed in Open *Council*, signed and sealed this 15th day of May 2020.

Amended this 15th day of December, 2020 by Resolution No. _____.

MAYOR

CLERK

Schedule "A"

To By-law No. 2020-23

RESIDENTIAL WATER & SEWER ALLOCATION

| Capital Charges | Singles Semis & Townhomes | Apartments 2 Bedrooms + | Apartment-Bachelor and 1 Bedroom Units | Other Multiples | Senior-Oriented Dwelling Unit | Special Care/Special Needs Dwelling Units |
|--|---------------------------|-------------------------|--|-----------------|-------------------------------|---|
| Average population per dwelling | 3 | 2.2 | 1.4 | 2.4 | 1.45 | 0.5 |
| Water Allocation (Average Day Demand) m3/day | 1.05 | 0.77 | 0.49 | 0.84 | 0.51 | 0.18 |
| Water Allocation (Maximum Day Demand) m3/day | 2.1 | 1.54 | 0.98 | 1.68 | 1.02 | 0.36 |
| Sewer Allocation (Day Demand) m3/day | 2 | 1.47 | 0.93 | 1.6 | 0.97 | 0.33 |
| Water Unit (1-unit equivalent to 2.1 m3/day) | 1 | 0.73 | 0.47 | 0.8 | 0.49 | 0.17 |
| Sanitary Unit (1-unit equivalent to 2 m3/day) | 1 | 0.733 | 0.465 | 0.80 | 0.485 | 0.165 |