

PROPOSED BY-LAW
June 5, 2023
BY-LAW NUMBER ____
OF THE
CORPORATION OF THE CITY OF KITCHENER
(Being a by-law to repeal and replace By-law 2002-164, By-law 2005-170, By-law 2007-042, and By-law 2012-069 with one comprehensive By-law to delegate certain Authority under the *Planning Act* and *Condominium Act*).

AND WHEREAS is deemed expedient to repeal By-law 2007-042:

AND WHEREAS is deemed expedient to repeal By-law 2012-069:

AND WHEREAS the Regional Municipality of Waterloo delegated the authority to approve plans of subdivision and condominiums (under section 51 of the Planning Act) to the City of Kitchener by Regional By-law 97-061, passed on November 26, 1997, pursuant to section 51.2 of the Planning Act;

AND WHEREAS the Council of the City of Kitchener deemed it desirable to further delegate said authority to an appointed officer as identified in the City of Kitchener Bylaw Number 97-185 as amended by By-law Numbers 98-013 and 99-110, pursuant to section 54.2(4) of the Planning Act;

AND WHEREAS the Minister of Municipal Affairs and Housing, pursuant to Ontario Regulation 341/100 dated June 13, 2000 and effective June 15, 2000, delegated to the City of Kitchener the authority to give approval under section 51 of the Planning Act for plans of subdivision and condominium as identified respectfully and schedules 1 and 2 of said regulation;

AND WHEREAS subsection 39.2(1) of the *Planning Act* permits Municipal Council by by-law to delegate to an appointed officer identified in the by-law either by name or position occupied, the authority to approve zoning by-law amendments under Section 34 of the said Act that are of a minor nature provided that an Official Plan specifies the types of by-laws which may be subject to delegation;

AND WHEREAS the City of Kitchener Official Plan contains policies specifying the types of minor zoning by-law amendments that may be delegated pursuant to section 39.2(2) of the *Planning Act*;

AND WHEREAS section 23.1 of the *Municipal Act* provides that a Municipal Council is authorized to delegate its powers and duties under this or any other Act to a person or body subject to any restrictions set out;

AND WHEREAS section 23.3(1)(5) of the *Municipal Act* authorizes a Municipal Council to delegate its powers and duties to pass by-laws provided under section 39.2 of the *Planning Act*;

AND WHEREAS the Council of the City of Kitchener deemed it desirable to further delegate such authority to an appointed officer as identified in the City of Kitchener By-law Number 2000-132 as amended by By-laws 2001-125 and 2002-63 pursuant to section 51.2(4) of the *Planning Act*;

AND WHEREAS the Council of the City of Kitchener deemed it desirable to consolidate By-law 97-185 as amended and By-law 2000-132 as amended and to delegate authority to sign statements from the Municipality pursuant to the *Condominium Act* and Ontario Regulation 48/01 thereunder;

NOW THEREFORE the Council of the City of Kitchener enacts as follows:

1. In this By-law,
 - A. "Director" means the Director, Planning in the Development Services Department of the City of Kitchener, their delegate, or successor in title.
 - B. "Council" means the Council of the Corporation of the City of Kitchener.
 - C. "Manager" means the Manager, Development Review in the Development Services Department of the City of Kitchener, their delegate, or their successor in title.
 - D. "Planning Act" means the *Planning Act*, R.S.O 1990, c.P. 13, as amended.
 - E. "Condominium Act" means the *Condominium Act*, S.O. 1998,

C.19, as amended.

2. All authority of Council to approve plans of subdivision and plans of condominium under section 51 of the *Planning Act* and Section 9 of the *Condominium Act* which has been delegated to Council by the Regional Municipality of Waterloo and the Minister of Municipal Affairs and Housing is hereby further delegated by Council to the Manager,
3. such authority delegated to the Manager, includes, subject only to the limitation set out in section 4 of this By-law, the authority:
 - A. to refuse to accept an application for a plan of subdivision or condominium until the City has received the information and material required under subsections 51(17) and 51(18) of the *Planning Act* and the fee required pursuant to subsections 69 or 69.1 of the *Planning Act* 'as set out in subsection 51(19) of the *Planning Act*; and
 - B. and to amend any conditions of draft approval imposed pursuant to subsection 51(25) of the *Planning Act*, subject to Section 4 of this By-law, without written notice of such change if, in the opinion of the Manager, the amendment is minor in nature.
4. Notwithstanding the foregoing, Council's delegation to the Manager set out in sections 2 and 3 of this By-law does not extend to situations where:
 - A. an application for a plan of subdivision pursuant to section 51(16) is received concurrently with an application for a zoning by-law amendment on the same lands pursuant to subsection 34(10) of the *Planning Act*;
 - B. a Public Meeting is required by the *Planning Act*,
 - C. the Manager is recommending refusal of a draft plan of subdivision or draft plan of condominium pursuant to subsection 51(31) of the *Planning Act*,
 - D. the Manager deems a review by Council necessary or

beneficial, taking into account (without limitation), the following:

- i. where there unresolved discrepancies between City Divisions or Departments;
- ii. where there is the potential for a special or unanticipated financial implication to the City.

5. Council's authority pursuant to subsections 51(58) and (59) is hereby delegated to the Manager and the approval of a final plan of subdivision or final plan of condominium for registration pursuant to subsection 51(58) of the *Planning Act* shall be evidenced by the signature of the Manager. Council's authority is further delegated to the Manager as follows:

6. The Manager is hereby authorized:

- A. to sign statements from the Municipality pursuant to Sections 52(5) and (6) of Ontario Regulation 48/01, as amended, made under the Condominium Act, as amended to be added to the amendment to a declaration, creating a phased condominium corporation, stating that all facilities and services have sufficiently been installed and provided to ensure the independent operation of the condominium corporation if no subsequent units are created, or that a bond or other security has been posted that is sufficient to ensure the independent operation of the corporation if no such subsequent phases are created; and
- B. to sign statements from a Municipality pursuant to sections 586(8)(b) and (9) of Ontario Regulation 48/01, as amended, made under the Condominium Act, has amended, to be included in a schedule to a declaration creating a vacant land condominium plan stating that a bond or other security acceptable to the city has been posted insufficiently to ensure that the requirements of Section 56(8)(b)(i)(ii)(iii) of the regulation are met.

7. In accordance with section 39.2 of the *Planning Act*, Council hereby delegates its authority to the Director who is hereby authorized to :
- A. pass a zoning by-law amendment which is of minor nature to remove a Holding “H” symbol.
 - B. pass a zoning by-law amendment which is of minor nature to make clerical, technical, administrative and other minor amendments to the Zoning By-law.
 - C. determine whether or not an application made in respect of a zoning by-law amendment is complete; and if determined to be incomplete, to refuse to accept it and return it to the applicant, detailing the outstanding information required.
 - D. determine whether or not the requirements of a Holding Provision have been met at the time of considering a zoning by-law amendment to remove the Holding Provision.
 - E. determine whether or not an application for a zoning by-law amendment is required to be referred to Council for the purpose of holding a public meeting, in accordance with the following considerations,
 - i. Certain holding symbols may require a statutory public meeting as part of conditions for their removal.
 - ii. If written comments are received from the public within the prescribed time period following the mailing of notice of application, a public meeting may be required.
 - iii. If the Director has determined that the zoning by-law amendment is not consistent with Provincial policy or does not conform with the Official Plan policy, a public meeting shall be held in accordance with the requirements of section 34 of the *Planning Act*, and it shall be referred to Council for decision and the delegated authority with respect to that particular application is hereby revoked.

8. This By-law shall become effective only if Official Plan Amendment No. (Implementation of Bill 13, Bill 109, and Bill 23) comes into effect, pursuant to Section 24(2) of The Planning Act, R.S.O. 1990, c. P.13, as amended.

9. By-law 2005-170, By-law 2007-042, and By-law 2012-069 shall be repealed on the date that this By-law comes into effect.

PASSED at the Council Chambers in the City of Kitchener this _____ day
of _____, A.D. 2023.

Mayor

Clerk