

1.1 DEVELOPMENT PERMIT SYSTEM

The Province, in its 2007 revisions to the Planning Act, has provided for a new development approval framework which combines five (5) existing systems into one (1). A Development Permit By-law replaces zoning, site plan and minor variance approvals in areas of the municipality where a Development Permit By-law has been approved in accordance with the municipality's Official Plan and the Planning Act. The Development Permit By-law can also replace a Site Alteration By-law and Tree Cutting by-law within the jurisdictional boundaries of the corporation. It should be noted that the issuance of a Development Permit does not replace the requirement for building permits under the Building Code Act or approvals for the division of land under Section 50.1 of the Planning Act, R.S.O., 1990 as amended.

The Development Permit By-Law clearly articulates and establishes development requirements, provisions and standards that need to be met before approval(s) can be issued. It provides for a streamlined approach to development approvals and in addition allows for flexibility within a clearly articulated context. The Council of the Town of Gananoque decided to move forward with the intent to implement policies of the Official Plan, streamline development and provide for timely reviews of development proposals. These objectives are articulated in the Town's vision statement:

To preserve and enhance the Town's unique
"small town" heritage, preserve our historic and
environmental character, and provide a high quality
of life through a sustainable development pattern.

The Town is divided into distinct areas on schedules which identify specific land use designations. Provisions for new development, infill and construction are outlined within the Development Permit By-Law's text. The Development Permit By-law designations are consistent with the designations in the Official Plan and the By-law provisions implement Official Plan policies and directions provided for each specific designation.

1.2 DEVELOPMENT PERMIT SIMILARITIES AND DIFFERENCES WITH EXISTING LAND USE REGULATIONS

The Development Permit By-law outlines requirements, standards and provisions for the control of land use and development in a manner which is similar to a Zoning By-Law. In addition it resembles a Site Plan

Control By-Law as it allows the municipality to require plans showing the location, massing and conceptual design of any proposed building, structure or comprehensive development.

It differs from traditional land use regulations by allowing discretionary uses, conditional approvals, variations to standard requirements, control of exterior design elements and control over the removal of vegetation in specific areas. This provides staff and Council with flexibility within the context of the By-Law to review development proposals and provide approvals without further site specific amendments to this By-Law.

1.3 LEGITIMACY AND APPROVAL AUTHORITY

All approvals issued through the Development Permit system must be deemed to be consistent with the policies of the approved Official Plan.

The permitted and discretionary uses as well as the development and design standards of the Development Permit By-law were developed through extensive consultation with the citizens of the Town of Gananoque. It is both staff and Council's responsibility to uphold the principles of this By-Law.

The Development Permit By-Law provides that Council may delegate its approval authority to staff or to a Committee. The Development Permit By-Law identifies specific types of Development and the associated approval authority. Notification requirements specific to each development stream have been outlined within the By-Law. Criteria have been developed for ease of evaluation. The Development Permit By-law provides for up front appeal procedures. The approval of the By-law itself may be subject to an appeal to the Ontario Municipal Board. Once the By-law is in full force and effect (i.e. no appeals or appeals resolved) a development permit can not be appealed by third parties. Only the applicant may appeal a decision or non decision of a development permit application.

As with any by-law adopted under section 34 of the Planning Act this By-Law may be amended by Council from time to time or by individuals making application for amendment to the By-Law.

2.1 TITLE

This By-Law shall be referred to as the "Town of Gananoque Development Permit By-Law" or "By-Law No. 2010-65"

2.2 SCOPE

The provisions of this By-Law apply to all the lands falling within the municipal boundaries of the Corporation of the Town of Gananoque as identified on the attached schedules which form an integral part of this By-law.

2.3 ADMINISTRATION

This By-Law shall be administered by the Manager of Community Development or such other person as may from time to time be designated by Council. No permit for the use of land or for the erection or use of any building or structure or the approval of an application for any municipal license within the jurisdiction of the Council shall be issued or given where the proposed building, structure or use would be a violation of any provision of this By-Law.

2.4 INTERPRETATION

The provisions of this By-Law are minimum requirements except where a maximum requirement is specifically identified.

The Interpretation Act, R.S.O., 1990 applies to this By-Law

Definitions are given in this By-Law to aid in the understanding and implementation of the true spirit, intent and meaning of the By-law. They are not to be used to avoid an obligation imposed by the By-Law or any requirement enacted in a substantive provision of the By-Law.

For purposes of this By-Law the word "shall" means a mandatory requirement.

This By-Law makes reference to the Town of Gananoque Official Plan and should be viewed and interpreted in combination with the Official Plan.

Conversion of metric numbers into imperial is provided for general reference only. Where a discrepancy occurs between the metric number and the approximate imperial conversion, the metric value will constitute the requirement.

2.5 CONFORMITY AND COMPLIANCE WITH BY- LAW

Save as otherwise provided in this By-Law, no land, or building, or structure shall be used for any purpose except as hereafter stated in this By-Law and in conformity with all of the applicable provisions of this By-Law.

Notwithstanding anything in this By-Law, no person shall reduce any lot in dimensions, either by conveyance or other alienation of title of any portion thereof, if the effect of such action is to cause the original, adjoining, remaining or new building, structure, lot or use of land to be in contravention of any provision of this By-Law. However, no person shall be deemed to have contravened any provision of this By-Law by reason of the fact that any part or parts of any lot has or have been conveyed to or acquired by any Public Authority.

Any use or structure which had been deemed to be a non-conforming use or structure in a predecessor By-Law shall be deemed to be non-conforming if also in violation of any of the provisions of this By-Law. Notwithstanding the above, the use or structure must pre-date the predecessor By-Law and must have existed prior to September 2010.

2.6 CHANGE IN USE

If the use of a property is altered or changed to a different use, which is permitted within the Development Permit Area, the property or use is subject to all relevant provisions of the Development Permit Area.

2.7 OBLIGATION

Nothing in this By-Law shall relieve any person from the obligation to comply with the requirements of the Ontario Building Code Act, and any other By-Laws of the Town of Gananoque and provincial and federal legislation.

2.8 UNLAWFUL USES

Any use established in violation of a predecessor of this By-Law is deemed to have been established unlawfully. If any use which was in violation of any predecessor of this By-law is now in conformity with By-Law 2010-65, the Development Permit By-Law of the Town of Gananoque, it shall now be deemed to be a lawful use.

2.9 INSPECTION OF LAND, BUILDINGS AND STRUCTURES

Subject to Section 49 of the Planning Act R.S.O., 1990, the Manager of Community Development or other such person as may from time to time be designated by Council or any person acting under his or her instructions, and upon producing proper identification, is hereby authorized to enter, at all reasonable times, upon any property or premises for the purpose of carrying out his duties under this By-Law.

Notwithstanding any provision of Section 2.9 hereof to the contrary, no officer or employee of the Corporation of the Town of Gananoque shall enter any room or place actually being used as a dwelling unit without obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused, except under the authority of a search warrant issued under Section 158 of the Provincial Offences Act.

2.10 ENFORCEMENT AND PENALTIES

Every person who contravenes any of the provisions of this By-Law is guilty of an offence and on conviction thereof shall forfeit and pay a penalty for each such offence and every such penalty shall be recoverable under the Provincial Offences Act, R.S.O., 1990 and amendments thereto.

When a person who has been convicted of an offence under this By-Law, any court of competent jurisdiction thereafter, may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted directed towards the continuation or repetition of the offence.

The requirements of this By-Law are severable, if any requirements of this By-Law are held invalid, the application of such requirements to other circumstances and the remainder of this By-Law shall not be affected.

2.11 EFFECTIVE DATE

This By-Law shall come into force in accordance with Section 9 of the Development Permit Regulation as amended. (Ontario Regulation 608/06).

2.12 REPEAL OF FORMER BY-LAWS

On the day that this By-law comes into full force and effect, By-Law 91-37, as amended, of the Town of Gananoque passed under Section 34 of the Planning Act, R.S.O., 1990 shall hereby be repealed.

The adoption of this By-Law shall not prevent any pending or future prosecution of, or action to abate any existing violation of the said By-Law if the violation is also a violation of any of the provisions of this By-Law.

2.13 SCHEDULES TO BY-LAWS

The following Schedules, which are attached hereto, form part of this By-Law;

- a) Schedule A - Development Permit Areas
- b) Schedule B - Overlays:
 - I Waterfront Sector,
 - II Entrance Sector,
- c) Schedule C - Special Exception Designations

2.14 DEVELOPMENT PERMIT REQUIREMENTS

Except as outlined in Section 2.16 of this By-Law, all development within the Town of Gananoque and as identified on Schedules "A", "B" and "C" to this By-Law shall require a development permit, subject to the provisions of this By-Law. For the purposes of this By-Law, development means:

- a) The construction, erection or placing of one or more buildings or structures on land,
- b) The making of an addition or alteration to a building or structure that has the effect of substantially increasing its size or usability,
- c) The laying out and establishment of a parking lot;
- d) The removal of vegetation within thirty (30) metres of the Gananoque or the St. Lawrence Rivers in accordance with the General Provisions as outlined in Section 3.43.

2.15 DEVELOPMENT PERMIT AREAS

A Development Permit Area is a defined area that is shown on the attached Schedule A to this By-Law and that is specifically designated as one of the following:

- a) Lowertown Mixed Use
- b) Lowertown, Residential
- c) Traditional Residential
- d) Residential
- e) Estate Residential
- f) Commercial Traditional Core
- g) Progressive Commercial District
- h) Gateway Commercial
- i) Employment District
- j) Rural
- j) Open Space
- k) Environmental Constraint

The Development Permit Areas are further modified by the following Schedule B overlays:

- i) I Waterfront Sector
- ii) II Entrance Sector and;

Schedule C Development Permit Exceptions.

2.16 DEVELOPMENT PERMIT EXEMPTIONS

A Development Permit shall not be required for single dwelling units, semi-detached dwelling units and duplex dwelling units provided that such development or proposed development is deemed to be in conformity with the requirements, standards and provisions within the designated Residential Development Permit Area as shown on Schedule A, Schedule B and Schedule C, and which is also in full conformity with all of the following standards:

- a) Development is setback a minimum 30 metres (98.4 feet) from any watercourse;
- b) No site alteration or vegetation removal is required or proposed within 30 metres of the Gananoque or St. Lawrence Rivers.

In addition a Development Permit shall not be required for the following:

- a) Any Development that has previously been approved through Site Plan Control may proceed with Development in accordance with the approved Site Plan.
- b) Any necessary repairs or maintenance to existing development.
- c) The placement of a portable classroom on a school site of a district school board is exempt from the requirement for a development permit if the school site was in existence on January 1, 2007.

Development proposals which meet the above noted criteria may proceed to the building department for building permit review.

2.17 DEVELOPMENT PERMIT CLASSES

Three streams of approval have been developed to provide consistency and transparency and to provide the ability to increase the level of review and approval controls based on the requested variation to the standards, the scale of the proposed development, the need for securities and the potential for off site impacts.

2.17.1 Class I Development Permit

A Class I Development Permit shall be required under the following circumstances where the result is a minor variation from approved standards and criteria:

1. Where the development generally meets the requirements, standards and provisions of the Development Permit Area but requires relief from one or more of those requirements. In such cases it must be demonstrated that:
 - a) There is no impact to adjacent properties or where the proposed development would result in minor impact(s) on adjacent properties and such impacts can be mitigated through on-site works; and

- b) The development proposal is an appropriate land use which is permitted within the designation; and
 - c) The development proposal is in conformity with the Official Plan and the Provincial Policy Statement as amended; and
 - d) The development's proposed variation from area standards will not negatively impact the area's character.
2. Where the applicant is required to formally recognize an existing legal non-conforming use or non-complying use.
 3. Where the type, location and scale of the proposed development is such that there is no municipal requirement for a security / performance deposit to guarantee on-site or off-site works.
 4. Where development is proposed within any Residential designation and is either:
 - a) Single Family Dwelling
 - b) Semi-Detached Dwelling
 - c) Townhouse
 - d) Duplex or;

within the Open Space Area and;

requires limited relief from the standards, provisions and requirements of By-Law 2010-65.

2.17.2 Class II Development Permit

A Class II Development Permit shall be required under any one or more of the following circumstances:

1. Where the municipality has received a request to have a Class I Permit reviewed by Planning Advisory Committee in accordance with Section 2.19.3 of this By-law; or
2. Where the development generally does not meet the requirements, standards and provisions of the Development Permit Area and requires relief from one or more of those requirements provided that;

- a) Impact(s) on adjacent properties can be mitigated through on-site and \ or off-site works; and
 - b) The development proposal is an appropriate land use within the designation; and
 - c) The development proposal is in conformity with the Official Plan and the Provincial Policy Statement as amended; and / or
3. The proposed development is a discretionary use in the Development Permit Area.
4. The proposed development is a temporary use as defined in Section 3.48 of this By-law.

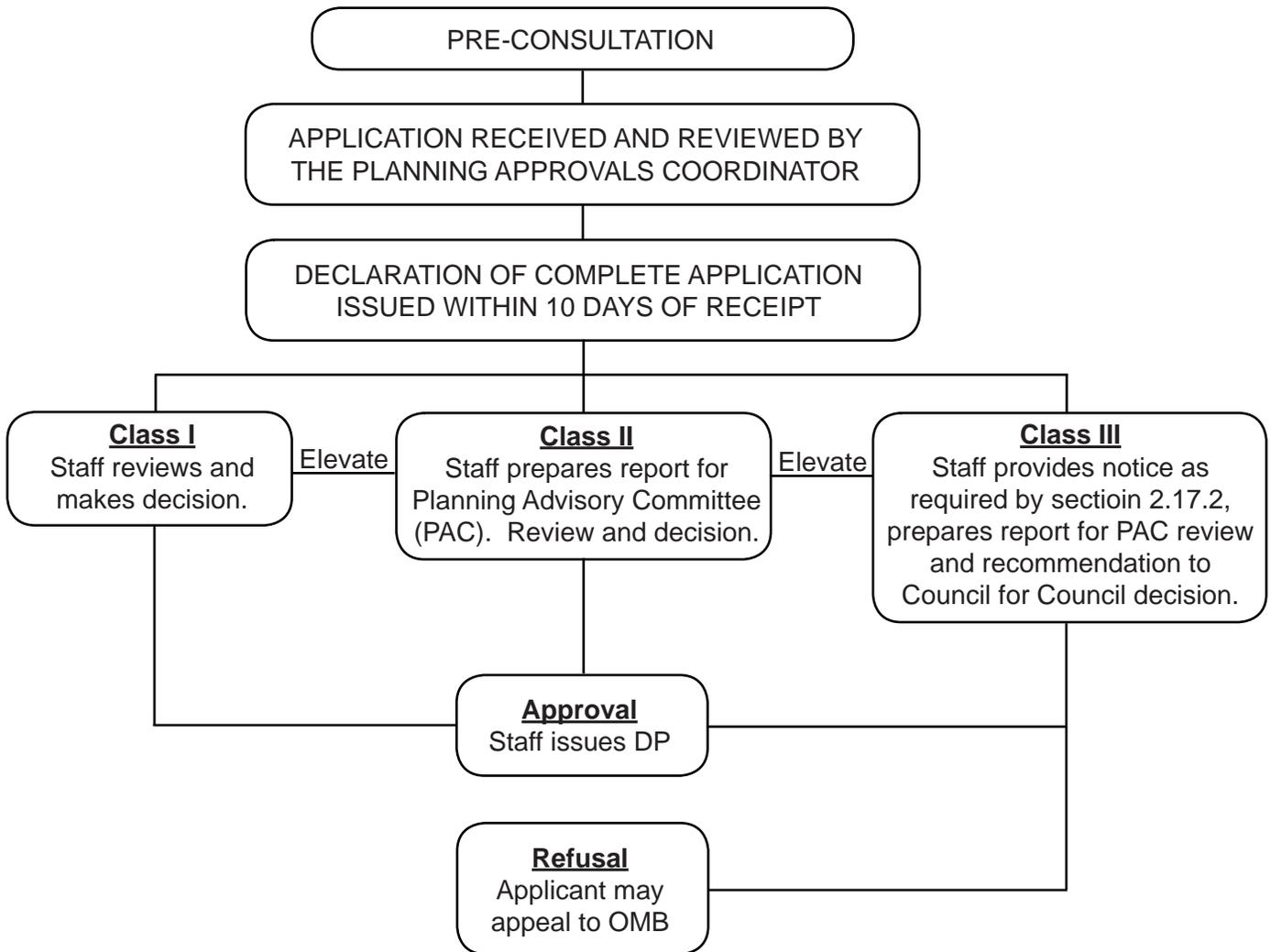
2.17.3 Class III Development Permit

A Class III Development Permit shall be required under any one or more of the following circumstances:

1. Where the municipality has received a request to have a Class II Permit reviewed by Council in accordance with Section 2.19.4 of this By-law; or
2. Where the development generally does not meet the requirements, standards and provisions of the Development Permit Area and requires relief from one or more of those requirements provided that;
- a) Impact(s) on adjacent properties can be mitigated through on-site and \ or off-site works; and
 - b) The development proposal is an appropriate land use within the designation; and
 - c) The development proposal is in conformity with the Official Plan and the Provincial Policy Statement as amended; and / or
3. Where the municipality requires technical studies or reports such as a Traffic Impact Study, Servicing Options Report, Environmental Impact Study or any other study or report which may be required to ensure a full and complete review of the proposed development.

4. Where off site works such as the extension of municipal services, road improvements, stormwater management facilities etc. are required.

2.18 DEVELOPMENT PERMIT REVIEW PROCESS



2.19 APPROVAL AUTHORITY AND PUBLIC NOTICE

CLASS OF DEVELOPMENT PERMIT	APPROVAL	NOTIFICATION REQUIREMENTS
Class I	Planning Approvals Coordinator	None
Class II	Planning Advisory Committee	- Posting of property - Circulation of properties within 120 metres of the subject lands
Class III	Council	- Posting of property - Circulation of properties within 120 metres of the subject lands

2.19.1 Complete Application

A complete application shall include all of the following elements:

1. A signed "Confirmation of Pre-Consultation Form"
2. A fully completed and signed Development Permit Application Form
3. Submission of the required application fees
4. Submission of all required Plans and Drawings
5. Submission of any required technical reports of studies. These studies or information may include, but are not limited to:
 - a) A servicing options report;
 - b) A hydrogeological study;
 - c) A drainage and/or stormwater management report;
 - d) An Environmental Impact Assessment for a natural heritage feature or area;
 - e) An Archaeological Assessment;
 - f) An influence area study for development in proximity to a waste management facility or industrial use;
 - g) A traffic study;
 - h) A mine hazard rehabilitation assessment;
 - i) A Phase I Environmental Study and if necessary further investigation as required;
 - j) A noise and/or vibration study;
 - k) A source water protection study;
 - l) A minimum separation distance calculation for an industrial use or a waste management facility;
 - m) Confirmation on sufficient reserve sewage system capacity and reserve water system capacity.

- n) Vegetation Inventory and /or Tree Preservation Plan.
- p) Heritage Resource Assessment

The Manager of Community Development will evaluate each application within ten (10) working days of its submission and to determine whether the application is complete or whether additional information is required. The applicant will receive formal correspondence from the Planning and Approvals Coordinator within ten (10) business days of receipt of said application. The timelines for review will commence on the date when the application is considered complete.

2.19.2 Notice Provisions:

Notice of a complete Class II and Class III Development Permit application shall be issued within ten (10) working days of the receipt of a Complete Application as described in Section 2.19.1. Notice shall be posted on site and circulated to properties within 120 metres of the subject lands. The notice shall include an explanation of the purpose and effect of the application, a contact name and phone number to obtain additional information or to submit comments or concerns and the deadline for the submission of comments. The notice will allow for a minimum of 15 (fifteen) days prior to the meeting of the Planning Advisory Committee where the item is to be considered.

2.19.3 Requests for PAC Review for Class I Applications

A Class I Development Permit Application may be referred to PAC by the Manager of Community Development where the Manager of Community Development is of the opinion that the application would benefit from PAC review. The applicant will be advised of the referral decision and the date of PAC review within ten (10) days of the date the application was declared complete.

2.19.4 Requests for Council Review for Class II Applications

Any Development Permit Application may be referred to Council by means of a written request to the Manager of Community Development. Requests may be forwarded by personal service, ordinary mail, email or facsimile and must include the name and address of the person or organization requesting the referral to Council as well as the reason(s) for the request. Requests must be received within ten (10) days of the date that notice was provided.

2.19.5 Issuance of Development Permits

Council hereby delegates to staff, the authority to issue provisional approvals and development permits, in accordance with the following:

Class I permits shall be issued by the Manager of Community Development;

Class II permits shall be issued by the Manager of Community Development as authorized by the Planning Advisory Committee or Council subject to policies outlined in Section 2.18 of this By-law.

Class III permits shall be issued by the Manager of Community Development as authorized by Council subject to the policies outlined in Section 2.18 of this By-Law.

2.19.6 Conditions

Where a Development Permit is required in accordance with the provisions of this Bylaw, the Corporation may impose conditions and grant provisional approval prior to final approval.

The proposed development shall in all cases be required to occur as illustrated on the approved and stamped drawings including all grading and drainage, servicing, lighting, landscaping, and elevation designs. A development agreement, registered on title may be required prior to final approval for any development application.

Technical reports may be required to allow completion of the review process and any recommendations therein may be imposed as conditions of Development Permit Approval. Such reports as outlined in Section 2.19.1 of this By-law may include but are not limited to Stormwater Management Report, Noise Impact Analysis, Environmental Impact Statement, Tree Preservation Plan, Lighting Analysis, Traffic Impact Analysis and Archeological Assessment. In the event that any recommendations within a submitted Technical report exceed the minimum requirements of any section of this By-Law the stricter requirement will be imposed prior to approval.

Conditions which address the following issues or concerns may be imposed:

1. Buffering of adjacent properties through hard or soft landscaping materials.

2. The provision of required site works including but not limited to servicing, road access, grading and drainage, fire routes, lighting details, parking facilities including the provision of barrier free parking spaces, elevations and landscape details.
3. The provision of performance securities for 100% of the value of all onsite and offsite works.
4. Road widening(s) by the Town or Province.
5. The construction or re-construction of access or egress onto all major roads or highways and any upgrading of the roads that may be necessary as a result of the increased traffic caused by the development.
6. Easements for access or servicing.
7. The provision of children's play areas may be required with any multi residential unit and apartment dwelling.
8. Cash-in-lieu of parking.