

March 26, 2025

## City Council Committee Report

**To: Kyle Attanasio, CAO**

**Fr: Janis Pochailo, Director of Planning and Building Services**

**Re: Site Plan Control Amendment**

### **Recommendation:**

That Council gives three readings to a new Site Plan Control By-law to amend the processing procedures for Site Plan Control Applications; and further

That By-law #20-2023 be hereby release.

### **Executive Summary**

The proposed updates to Kenora's Site Plan Control By-Law aim to balance the City's priorities of minimizing risk and protecting its interests with the goal of encouraging and supporting development. By applying financial security calculations on site-related works and excluding building values, the revisions address developer concerns about excessive costs while ensuring sufficient safeguards are in place for municipal compliance. The addition of section 10.6 provides clarity surrounding the release of securities which is currently absent in the existing By-law. This approach promotes investment, supports economic growth, and aligns with Kenora's *Charting Our Course 2027* Strategic Plan, fostering a responsible and collaborative framework that benefits both the City and its development community.

Proposed amendments to the original By-law include:

- Name changes for the Planning and Building Department.
- Replace section *10.6 Financial Securities* with revised wording for security calculations as follows:
  - a. On-site Deposit – 10% of the construction costs of all onsite works (including stormwater management facilities and excluding the buildings and structures). A deposit of \$1,000 will be required as a minimum.
  - b. Off-site Deposit – 100% of the construction costs for all works within the Municipal Right of Way, on other City property, or for municipal owned services on private property.

The value of construction shall include any site grading, storm water management facilities, landscaping and paving works, sidewalks, fences, retaining walls, on-site lighting, or similar required works as shown on the approved plans.

- Add section 10.6 Release of Financial Securities as follows:

Once all the Conditions in the Site Plan Agreement have been complied with and there are no deficiencies noted during the Site Plan Compliance Review, the deposits will be released to the then owner of the property as follows:

- a. Off-site Deposit – reduced to 10% until the end of the 1-year maintenance period.
  - b. On-site Deposit – reduced to 10% until the end of the 1-year maintenance period.
- Various wording changes to enhance clarity.

## **Background**

Municipalities collect security deposits for development to ensure compliance with approved plans, conditions, and regulations, providing a financial guarantee that developers complete necessary infrastructure, landscaping, or other requirements. These deposits protect the municipality and taxpayers from bearing the costs of incomplete or substandard work. In Ontario, it is standard practice to exclude buildings from security deposit calculations, focusing instead on site-related works such as grading, servicing, landscaping, and infrastructure to ensure compliance with municipal requirements.

The City of Kenora Site Plan Control By-law #23-2023 requires that building costs be included in the security calculations. Although this requirement was carried forward from the previous Site Plan Control By-law (189-2010), in practice building values have been excluded from the calculations. This has resulted in significantly lower security deposits than was intended or anticipated when the By-law was written.

## **Discussion and Analysis**

### **4.1 Feedback from the Development Community**

Developers have expressed concerns about the City's requirement to include the cost of buildings in security deposit calculations for site plan control, arguing that this creates significant financial burdens for projects. Developers contend that this methodology unnecessarily inflates the security amounts, tying up capital that could otherwise be used for project advancement or other investments. The inclusion of buildings in the calculation is also inconsistent with industry standards, leading to competitive disadvantages and disincentivizing development in the city.

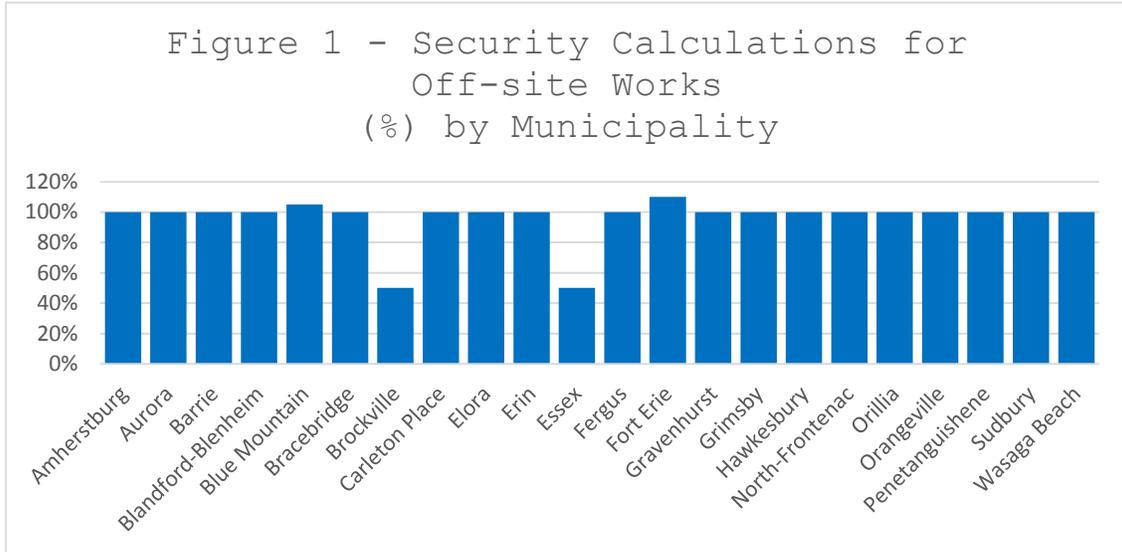
### **4.2 Jurisdictional Scan**

A jurisdictional scan of security deposit practices reveals that municipalities in Ontario generally calculate deposits based on the cost of site-related works, such as municipal servicing, landscaping, and infrastructure improvements, without including building costs. The calculations generally distinguish between development activities on municipal land (referred to as off-site or external works) and the developer's property (referred to as on-site or internal works). The findings of the jurisdictional scan of twenty-six (26) municipalities in Ontario can be found in Figures One and Two. Following is a summary of the findings:

#### **Securities for Off-site Works:**

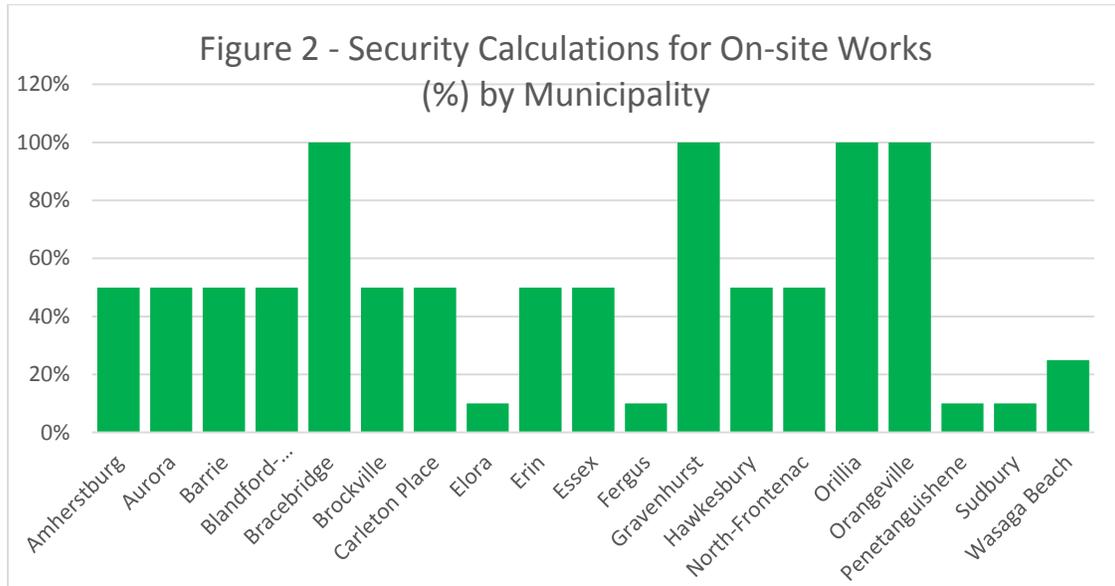
Out of the twenty-six municipalities surveyed, eighteen require 100% security for off-site works, two municipalities require greater than 100% security, two

municipalities require 50% security, and two municipalities use a flat fee model for both on-site and off-site security amounts. One municipality (Cornwall) uses an off-site security calculation of one-percent and one municipality (Cobourg) appears to negotiate securities on a case-by-case basis. The complete Jurisdictional Scan can be found in Appendix One.



### Securities for On-site Works:

The security requirements for on-site works tend to be lower. Out of the twenty-six municipalities surveyed, four require 100% security; ten require 50%; two had a range of between 15% and 50%; four used 10%; and two municipalities used a flat fee model for both on-site and off-site security amounts. One municipality (Cornwall) uses an on-site security calculation of one percent and two municipalities (Cobourg and Blue Mountain) negotiate securities on a case-by-case basis.



### Impact Analysis

Administration contacted owners of recent, and ongoing development in Kenora to obtain costing information with the purpose of testing models. Development was both residential and commercial with development ranging from high density with minor site development to high-medium density with extensive site development requirements. To maintain confidentiality names and locations of the developments have been redacted.

A summary of the results can be found on the next page.

Table 1: Jurisdictional Scan of Ontario Security Models

Security Amounts and Reference Community								
	Cost Estimate	City By - Law	Past Practice	Sudbury	Blandford - Blenheim	North Frontenac	Fort Erie	Recommendation
<b>Development 1</b>								
Total Building	20,100,000	258,600	57,600	355,989	760,000	653,600	653,300	360,000
Total - On Site	1,000,000							
Total - Off Site	260,000							
Total Cost	21,360,000							
<b>Development 2</b>								
Total Building	100,000,000	1,087,000	87,000	600,000	2,200,000	No Data	No Data	600,000
Total - On Site	4,000,000							
Total - Off Site	200,000							
Total Cost	104,200,000							
<b>Development 3</b>								
Total Building	4,295,151	94,450	74,500	115,000	395,000	395,000	150,000	115,000
Total - On site	69,168							
Total - Off Site	45,832							
Total Cost	4,410,151							
<b>Development 4</b>								
Total Building	15,800,000	208,758	50,424	151,286	321,350	274,203	240,990	145,070
Total - On site	440,700							
Total - Off Site	101,000							
Total Cost	16,341,700							
<b>Development 5</b>								
Total Building	400,000	53,000	49,000	125,818	300,000	No Data	No Data	220,000
Total - On site	200,000							
Total - Off Site	200,000							
Total Cost	800,000							

Note: Full cost breakdowns were not provided for Development 2 and 5 to determine analysis for North Frontenac and Fort Erie

## **Security Model Analysis**

Referring to Table 1 above, Development 3 and Development 5 represent different types of developments. Development 3 primarily consists of a large building with minimal on-site and off-site development, whereas Development 5 involves extensive site works, both on-site and off-site.

As previously discussed, the purpose of security deposits in developments is to ensure compliance with approved plans, conditions, and regulations. These deposits act as a financial guarantee to ensure that developers complete the required infrastructure, landscaping, or other site-related works. Given this context, it is appropriate for Development 5's security amount to be higher than that of Development 3, reflecting the significantly greater scope of site-related works involved.

Under the City's current By-Law, the security for Development 3 exceeds that of Development 5 by \$35,102. Similarly, the City's past practices have shown a comparable disparity of \$37,500. In comparison, the City of Sudbury applies a different methodology for calculating security deposits:

- On-site works (excluding buildings): 10% of the construction costs, with landscaping deposits capped at \$20,000.
- Off-site works: 100% of the construction costs.

Using Sudbury's approach, Development 5's security amount would exceed Development 3's by \$73,059. This aligns with the intended purpose of security deposits, which is to proportionally account for the scope of on-site and off-site work. As the complexity or scale of off-site works on City property and on-site works on private property increases, the corresponding security amount also rises.

## **Risk Analysis**

The security calculations mandated under the current by-law create both infrastructure and financial risk. By tying security deposits to building values, high-density projects and premium developments, such as apartment complexes or specialized institutional or commercial facilities are inadvertently discouraged. Conversely, for developments with low building values and substantial site development work, the required security may be insufficient to protect the City's interests. If the developer defaults or an emergency arises, the City may need to intervene to protect public or private infrastructure without sufficient funds to recover the associated costs.

Excluding building values from the security calculation, as was the previous practice, exposes the City to the same risks.

Adopting the recommended model would mitigate these risks and align City practices with a standard approach used in other Ontario municipalities. This model increases security deposits proportionate to the scope of on-site and off-site works, ensuring a more balanced and equitable approach.

The proposed By-law maintains the current provision for exceptional circumstances which allows staff to adjust security requirements in cases where the proposed model does not adequately address specific risks to the organization.

### **Communication Plan/Notice By-law Requirements**

Notice for this By-law has been given in accordance with the Municipal Act. Security requirements will continue to be communicated to developers when they apply for Site Plan Control.

### **Strategic Plan**

Aligning Kenora's site plan control policies to support development aligns with the City's strategic priorities outlined in the Charting Our Course 2027 Strategic Plan, particularly within the identified focus areas of "Promoting Economic Growth and Resiliency" and "Housing Development Across the Spectrum." Simplifying and reducing the financial burden of site plan control aligns with the feedback from the "What We Heard" consultation, where stakeholders emphasized the need for improved housing options, streamlined development processes, and enhanced collaboration between the City and developers. The proposed by-law is also consistent with Strategic Plan Goal 1.2: to ensure well-maintained and sustainably financed City infrastructure by ensuring that the City has access to adequate resources for the reparation and maintenance of infrastructure in the event of developer default.

### **Conclusion**

The proposed updates to Kenora's Site Plan Control By-Law strike a balance between fostering a development-friendly environment and safeguarding the City's interests. By excluding building values from security calculations and focusing on site-related works, the revisions address developer concerns while maintaining sufficient financial protection to ensure compliance with municipal standards. This approach minimizes risks to taxpayers by ensuring essential infrastructure and improvements are completed, while also promoting investment and development opportunities. The updated By-law supports Kenora's strategic goals for economic growth and housing diversity, ensuring a responsible and collaborative framework that benefits both the City and the development community.

**Appendix 1 – Findings of Jurisdictional Scan of Security Calculations in Ontario**

<b>Municipality</b>	<b>Population</b>	<b>On-Site Security</b>	<b>Off-Site Security</b>	<b>Holdback %</b>
Amherstburg	26,268	50%	100%	15%
Aurora	65,970	50%	100%	25%
Barrie	157,194	50%	100%	5%-10%
Blandford-Blenheim	7,565	50%	100%	
Blue Mountain	10,000	?	105%	Varies
Bracebridge	18,896	100%	100%	15%
Brockville	22,116	50%	50%	N/A
Carleton Place	12,130	50%	100%	10%
Cobourg	20,519	N/A	N/A	15%
Cornwall	47,845	1%	1%	10%
Elora	7,700	10%	100%	N/A
Erin	12,000	50%	100%	Varies
Essex	12,216	50%	50%	25%
Fergus	21,000	10%	100%	N/A
Fort Erie	36,209	15%-50%	110%	Varies
Gravenhurst	14,324	100%	100%	10%
Grimsby	31,233	20%-50%	100%	10%
Hawkesbury	9,818	50%	100%	N/A
Lakeshore	36,611	\$4K to \$25K Flat Fee		N/A
North-Frontenac	2,285	50%	100%	
Orillia	33,411	100%	100%	10%
Orangeville	30,000	100%	100%	25%
Penetanguishene	8,962	10%	100%	10%
Sudbury	171,446	10%	100%	
Wasaga Beach	24,862	25%	100%	10%
Whitchurch-Stouffville	49,864	\$10K to \$25K Flat Fee		N/A

## Appendix 2 - Recommended changes to the security calculations for Site Plan Control By-Law, Number 23-2023

### ~~10.6 Financial Securities~~

~~Where an agreement is required pursuant to Section 6. of this By-law, and said agreement requires the submission of financial securities to ensure the satisfactory completion/maintenance of the works required by the Agreement and approved plans listed therein, the amount of the financial security shall be calculated on the basis of the total value of construction, as follows:~~

~~(a) 10% of the first \$500,000.00 of the total value of construction; plus~~

~~(b) 1% of the balance of the value of construction in excess of \$500,000.00;~~

~~or~~

~~(c) In exceptional circumstances where it is deemed that the full security as provided for under the above calculation is not required, an alternative amount as deemed appropriate by the Director of Planning and Building Services~~

### 10.6 Financial Securities

a. Off-site Deposit – 100% of the construction costs for all works within the Municipal Right of Way, on other City property, or for municipal owned services on private property.

b. On-site Deposit – 10% of the construction costs of all onsite works (including stormwater management facilities and excluding the buildings and structures). A deposit of \$1,000 will be required as a minimum.

c. Exceptional Circumstances - Where it is deemed that full security as provided for under the above calculation is not required, an alternative amount as deemed appropriate by the Director of Planning and Building may be used.

Note, the above calculation is used to estimate the required deposit only, and does not limit the use of the deposit to ensure compliance with all work required under the Site Plan Control Agreement, including but not limited to servicing, grading, rock faces, structures, lighting, landscaping, pavement, etc.

### 10.7 Release of Financial Securities

Once all the Conditions in the Site Plan Agreement have been complied with and there are no deficiencies noted during the Site Plan Compliance Review, the deposits will be released to the then owner of the property as follows:

c. Off-site Deposit – reduced to 10% until the end of the 1-year maintenance period.

d. On-site Deposit – reduced to 10% until the end of the 1-year maintenance period.