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Bill 63

**An Act respecting the adjustment of the boundary between
the City of St. Thomas and the Municipality of Central Elgin**

The Hon. S. Clark

Minister of Municipal Affairs and Housing

Government Bill

1st Reading February 22, 2023

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill enacts the *St. Thomas - Central Elgin Boundary Adjustment Act, 2023*, which provides for the annexation of a portion of the Municipality of Central Elgin to the City of St. Thomas. Various matters are dealt with, including the application of by-laws, resolutions and official plans, the continuation of procedures in process and arrangements with respect to real property taxes. Provision is made for payments between the respective municipalities, as may be required and determined by regulation. The Minister is authorized to make orders providing for the closure of public highways. The annexed area is described in the Schedule. However, the Minister is authorized to make regulations prescribing the annexed area and, if the Minister does so, that description is deemed to be the annexed area as of the effective date and the description in the Schedule is deemed not to have been the annexed area.

**An Act respecting the adjustment of the boundary between
the City of St. Thomas and the Municipality of Central Elgin**

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Interpretation

Definition

1 (1) In this Act,

“effective date” means the day the *St. Thomas - Central Elgin Boundary Adjustment Act, 2023* receives Royal Assent.

References

(2) A reference in this Act to the County of Elgin, the City of St. Thomas or the Municipality of Central Elgin is a reference to the geographic area comprising that municipality or a reference to the municipal corporation bearing that name, as the context requires.

Annexation

2 (1) On the effective date, the portion of the Municipality of Central Elgin described in the Schedule to this Act is annexed to the City of St. Thomas.

Real property

(2) All real property of the Municipality of Central Elgin and the County of Elgin in the annexed area vests in the City of St. Thomas on the effective date including without limitation,

- (a) any highway, fixture, waterline and sewer in the annexed area; and
- (b) any easement and restrictive covenant running with land in the annexed area.

Other assets and liabilities

(3) All assets and liabilities of the Municipality of Central Elgin or the County of Elgin that are located in or associated with the annexed area, other than those described in subsection (2), remain the assets and liabilities of the Municipality of Central Elgin or the County of Elgin, as the case may be.

Proceedings re real property

(4) Any proceeding, including any arbitral, administrative or court proceeding, relating to real property of the Municipality of Central Elgin or the County of Elgin in the annexed area that commenced prior to the effective date remains the obligation of the Municipality of Central Elgin or the County of Elgin, as the case may be.

By-laws and resolutions

3 (1) On the effective date,

- (a) subject to subsection (2), the by-laws and resolutions of the City of St. Thomas extend to the annexed area; and
- (b) subject to subsections (3) and (4), the by-laws and resolutions of the Municipality of Central Elgin and the County of Elgin cease to apply to the annexed area.

Exception, subs. (1) (a)

(2) A by-law passed pursuant to section 135 of the *Municipal Act, 2001* by the City of St. Thomas that is in effect on the effective date does not extend to the annexed area. However, nothing prevents the City from passing a by-law pursuant to section 135 of the *Municipal Act, 2001* after the effective date that extends to the annexed area.

Exception, subs. (1) (b)

(3) To the extent that they apply to the annexed area, the following by-laws of the Municipality of Central Elgin and the County of Elgin are deemed to be by-laws of the City of St. Thomas and remain in force in the annexed area until they expire or are repealed or amended to provide otherwise:

1. By-laws passed under section 34 of the *Planning Act*, or a predecessor of that section.

2. By-laws passed under the *Highway Traffic Act* or the *Municipal Act, 2001*, or a predecessor of either of those Acts, to regulate,
 - i. the use of highways by vehicles and pedestrians, or
 - ii. the encroachment or projection of buildings upon or over highways.
3. By-laws passed under section 45, 58 or 61 of the *Drainage Act*, or a predecessor of any of those sections.

Same

(4) To the extent that they apply to the annexed area, any by-laws and resolutions of the Municipality of Central Elgin and the County of Elgin that confer rights, privileges, franchises, immunities or exemptions and could not lawfully be repealed by the Municipality of Central Elgin or the County of Elgin are deemed to be by-laws and resolutions of the City of St. Thomas.

By-laws in process

(5) If the Municipality of Central Elgin or the County of Elgin has commenced procedures to enact a by-law under any Act and that by-law applies to the annexed area and is not in force on the effective date, the City of St. Thomas may continue the procedures to enact the by-law to the extent that it applies to the annexed area.

Official plan

4 (1) The official plan of the Municipality of Central Elgin in respect of the annexed area is deemed to be an official plan of the City of St. Thomas on the effective date, and remains in force until it is revoked or amended to provide otherwise.

Official plan and amendments in process

(2) If the Municipality of Central Elgin has commenced procedures to adopt an official plan or an amendment to its official plan and that official plan or amendment applies to the annexed area and is not in force on the effective date, the City of St. Thomas may continue the procedures to adopt the official plan or amendment to the extent that it applies to the annexed area.

Other matters in process

5 (1) If the Municipality of Central Elgin or the County of Elgin has commenced procedures with respect to any matter other than those described in subsections 3 (5) and 4 (2), and the matter applies to the annexed area and, on the effective date, has not been completed, the City of St. Thomas may continue the procedures to complete the matter to the extent that it applies to the annexed area.

Tax sales

(2) For clarity, a reference to procedures in subsection (1) includes tax sales procedures under Part XI of the *Municipal Act, 2001*.

Property taxes due and unpaid

6 (1) All real property taxes levied and uncollected in the annexed area that are due and unpaid on the day before the effective date, become, on the effective date, taxes that are due and payable to the City of St. Thomas and may be collected by the City.

Special tax roll

(2) The clerk of the Municipality of Central Elgin shall, before May 1, 2023, prepare and furnish to the clerk of the City of St. Thomas a special tax roll showing,

- (a) all arrears of real property taxes or special rates assessed against the land in the annexed area up to and including the day before the effective date; and
- (b) the persons assessed for those arrears.

Tax arrears, etc

(3) On or before July 31, 2023, the City of St. Thomas shall pay to the Municipality of Central Elgin an amount equal to the arrears of real property taxes or special rates contained on the special tax roll, together with any accumulated interest or penalty, but excluding any amount that the treasurer of the City of St. Thomas removes from the roll under section 354 of the *Municipal Act, 2001*.

Definition

(4) In this section,

“real property taxes” has the same meaning as in subsection 371 (1) of the *Municipal Act, 2001*.

Assessment roll for 2023 taxation

7 For the purposes of the City of St. Thomas’ assessment roll for the 2023 taxation year, the annexed area is deemed to be part of the City of St. Thomas for the part of the year that the annexation under section 2 takes effect.

No disqualification

8 Despite subsection 258 (2) of the *Municipal Act, 2001*, a person who is a member of the council of the Municipality of Central Elgin on the effective date is not, during the term of office ending November 14, 2026, disqualified from holding office because of any loss of qualification resulting solely from the annexation under this Act.

Payments

9 (1) The City of St. Thomas shall make such payment or payments, as required and determined by the regulations, if any, to the Municipality of Central Elgin or the County of Elgin, or to both.

Same

(2) The Municipality of Central Elgin or the County of Elgin, or both, shall make such payment or payments, as required and determined by the regulations, if any, to the City of St. Thomas.

Order

10 (1) The Minister may, by order, provide for the closure of public highways within the City of St. Thomas, if the Minister is of the opinion that the closure is necessary or advisable for the purposes of development or redevelopment of lands, buildings or structures in the annexed area.

Registration

(2) Subject to subsection (3), an order under subsection (1) may be registered in the appropriate land registry office in a format acceptable to the Director of Titles.

Permanent closure

(3) An order under subsection (1) that permanently closes a highway shall be registered in the appropriate land registry office in a format acceptable to the Director of Titles and does not take effect until it has been registered.

Regulations

11 (1) The Minister of Municipal Affairs and Housing may make regulations providing for any matters which, in the opinion of the Minister, are necessary or advisable for the purposes of this Act, including,

- (a) providing for any of the matters described in Ontario Regulation 204/03 (Powers of the Minister or a Commission in Implementing a Restructuring Proposal) made under the *Municipal Act, 2001*, with respect to the annexation under this Act;
- (b) requiring and determining payments for the purposes of section 9;
- (c) providing for transitional matters which, in the opinion of the Minister, are necessary or desirable to,
 - (i) facilitate the implementation of this Act or any provision of this Act, or
 - (ii) deal with problems or issues arising as a result of the enactment of this Act.

Retroactivity

(2) A regulation made under subsection (1) may be made retroactive to a date not earlier than the effective date.

Conflict

12 (1) This Act applies despite any general or special Act and despite any regulation made under any other Act and, in the event of a conflict between this Act and another Act or a regulation made under another Act, this Act prevails.

Same

(2) In the event of a conflict between a regulation made under subsection 11 (1) and another provision of this Act, a provision of another Act or a provision of a regulation made under another Act, the regulation made under subsection 11 (1) prevails.

Amendments to this Act

13 (1) Subsection 2 (1) of this Act is repealed and the following substituted:

Annexation

(1) The portion of the Municipality of Central Elgin as prescribed by the regulations is annexed to the City of St. Thomas.

Same

(1.1) If a regulation is made for the purposes of subsection (1), the area prescribed by that regulation is deemed to be annexed as of the effective date and the area described in the Schedule to this Act, as it read immediately before its repeal, is deemed not to have been annexed.

(2) Subsection 11 (1) of this Act is amended by adding the following clause:

(a.1) prescribing the annexed area for the purposes of subsection 2 (1).

(3) The Schedule to this Act is repealed.**Commencement****14 (1) Except as otherwise provided in this section, this Act comes into force on the day it receives Royal Assent.****(2) Section 13 of this Act comes into force on a day to be named by proclamation of the Lieutenant Governor.****Short title****15 The short title of this Act is the *St. Thomas - Central Elgin Boundary Adjustment Act, 2023*.**

SCHEDULE

1 The portion of the Municipality of Central Elgin is described as follows:

1. Lands located in the Municipality of Central Elgin, in Elgin County, being the lands described as the Road Allowance between the South half of Lots 8 and 9, Concession 10 Yarmouth; the Road Allowance between Concession 10 and Range 2, North of Edgeware Road, Yarmouth; Part of Lots 9-12, Concession 10; Part of Lot 9 and Lots 10-12, Range 2, North of Edgeware Road, Yarmouth; Lots 11-12, Range 1, North of Edgeware Road, Yarmouth; the Road Allowance for Edgeware Road, Yarmouth; Part of Lot 4 on Registered Plan 261, Yarmouth; Part of Lot 9 and Lots 11-12, Range 1, South of Edgeware Road, Yarmouth; Part of Lots 11-15, Concession 9, Yarmouth; Part of the Road Allowance between Concession 9 and Concession South of Edgeware Road, Yarmouth; Part of Lot 9 Concession South of Edgeware Road, Yarmouth; the Road Allowance between Concession 9 and Range South of Edgeware Road, Yarmouth; and the Road Allowance between Lots 12 and 13 South of Edgeware Road, Yarmouth, and more specifically described as:
 - i. All the lands as identified by the following Property Identification Numbers and all registered in the Land Registry Office for the Land Titles Division of Elgin (no. 11):
 - A. 352660101 (LT).
 - B. 352670199 (LT).
 - C. 352670201 (LT).
 - D. 352670206 (LT).
 - E. 352670211 (LT).
 - F. 352670219 (LT).
 - G. 352670228 (LT).
 - H. 352670242 (LT).
 - I. 352670257 (LT).
 - J. 352670259 (LT).
 - K. 352670274 (LT).
 - L. 352670275 (LT).
 - M. 352670276 (LT).
 - N. 352670277 (LT).
 - O. 352680104 (LT).
 - P. 352680109 (LT).
 - Q. 352680145 (LT).
 - R. 352680148 (LT).
 - S. 352680149 (LT).
 - T. 352680153 (LT).
 - U. 352680155 (LT).
 - V. 352680157 (LT).
 - W. 352680162 (LT).
 - X. 352680163 (LT).
 - ii. Those portions of lands known as Highbury Avenue, starting from the boundary limits for the Municipality of Central Elgin, as identified as part of Property Identification Number 352680102 (LT), up until the outer limits for

the lands as identified by Property Identification Numbers 352680104 (LT) and 351620180 (LT), registered in the Land Registry Office for the Land Titles Division of Elgin (no. 11).

- iii. Those portions of lands located on the Ontario Southland Railway up until the boundary limits for the Municipality of Central Elgin, as identified as part of Property Identification Number 352680106 (LT), registered in the Land Registry Office for the Land Titles Division of Elgin (no. 11).
- iv. Those portions of lands described as Part of Lot 9, Range 2, North of Edgeware Road, Yarmouth, up until the boundary limits for the Municipality of Central Elgin, as identified as part of Property Identification Number 352680144 (LT), registered in the Land Registry Office for the Land Titles Division of Elgin (no. 11).
- v. Those portions of lands described as Part of Lot 10, Range 2, North of Edgeware Road, Yarmouth, up until the boundary limits for the Municipality of Central Elgin, as identified by part of Property Identification Number 352680150 (LT), registered in the Land Registry Office for the Land Titles Division of Elgin (no. 11).
- vi. Those portions of lands known as Yarmouth Centre Road, up until the outer limits of Ron McNeil Line (County Road 52), in the Municipality of Central Elgin, as identified as part of Property Identification Number 352710130 (LT), registered in the Land Registry Office for the Land Titles Division of Elgin (no. 11).
- vii. Those portions of lands known as Edgeware Line, up until the boundary limits for the Municipality of Central Elgin, as identified as part of Property Identification Number 352680105 (LT), registered in the Land Registry Office for the Land Titles Division of Elgin (no. 11).
- viii. Those portions of lands known as Edgeware Line, up until the outer limits of Yarmouth Centre Road, in the Municipality of Central Elgin, as identified as part of Property Identification Number 352710133 (LT), registered in the Land Registry Office for the Land Titles Division of Elgin (no. 11).
- ix. Those portions of lands described as Part of Lot 9, Range 1, South of Edgeware Road, Yarmouth, up until the boundary limits for the Municipality of Central Elgin, as identified as part of Property Identification Number 352670241 (LT), registered in the Land Registry Office for the Land Titles Division of Elgin (no. 11).
- x. Those portions of lands described as the Road Allowance Between Concession 9 and Concession South of Edgeware Road, Yarmouth, Part of Lot 9 Concession South of Edgeware Road, Yarmouth, up until the boundary limits for the Municipality of Central Elgin, as identified as part of Property Identification Number 352670229 (LT), registered in the Land Registry Office for the Land Titles Division of Elgin (no. 11).
- xi. Those portions of lands known as Yarmouth Centre Road, up until the outer limits of the Canadian National Railway, as identified by Property Identification Number 352660101 (LT), registered in the Land Registry Office for the Land Titles Division of Elgin (no. 11).