HOW TO USE THIS BY-LAW

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GENERAL

This Section is intended to assist the reader in reading and interpreting the Zoning By-law. This Section does not form a part of the Zoning By-law, but is intended for convenience only.

PURPOSE OF THIS BY-LAW

The purpose of this By-law is to regulate the use of land and buildings as well as the size, location and character of buildings and structures in the City of Brockville. This By-law is prepared in accordance with Section 34 of the *Planning Act*.

Any change in the use of a property or building, any new buildings or structures, and any alterations to buildings and structures must be in compliance with this By-law before a building permit will be issued by the City.

If a proposed change in use or construction project is not in compliance with this By-law, an applicant may apply for a minor variance from the City's Committee of Adjustment to seek relief from the requirements of the By-law, where the relief is minor in nature. Where the relief is not minor, an applicant may apply for a Zoning By-law Amendment.

STRUCTURE OF THIS BY-LAW

This By-law is divided into seven main Sections, in addition to this preamble and the Table of Contents. Additionally, there are schedules which form part of this By-law. The main Sections are as follows:

1. Interpretation, Administration and Enforcement

Section 1.0 outlines the requirement to comply with the Zoning By-law and the penalties for non-compliance. This Section outlines how the text and schedules are to be interpreted.

2. Definitions

Section 2.0 contains many definitions to assist in interpreting and understanding the meaning of terms used in the By-law. As the reader uses the Zoning By-law, they should be frequently referring to the definitions, which often contain specific parameters to describe how certain things are calculated (e.g., building height), or describe what activities constitute a permitted land use.

3. General Provisions

Section 3.0 contains provisions that apply to all zones in the City of Brockville. General provisions include provisions for specific types of uses (e.g., automobile service stations) as well as provisions for accessory structures (e.g., decks). The general provisions may not apply in all cases. The reader should review all of the general provisions to identify which ones will apply to their property or project.

4. Zone Classifications

Section 4.0 establishes the different zone classifications. The entire City of Brockville is “zoned” into these various classifications. Each zone classification is associated with a set of permitted uses and lot and building requirements, which are outlined in Sections 5.0 – 7.0. Each zone category is further classified into the broader categories of “Residential,” “Commercial and Mixed Use” and “Non-Residential and Non-Commercial.”

5. Residential Zones

Section 5.0 outlines the permitted uses and the lot and building requirements for all of the Residential zones.

6. Commercial and Mixed Use Zones

Section 6.0 outlines the permitted uses and the lot and building requirements for all of the Commercial and Mixed Use zones.

7. Non-Residential and Non-Commercial Zones

Section 7.0 outlines the permitted uses and the lot and building requirements for all of the Non-Residential and Non-Commercial zones.

8. Repeal of Former Zoning By-laws

Section 8.0 repeals and replaces all former Zoning By-laws in the City of Brockville with this By-law, and indicates the effective date of this By-law.

Schedules

Schedule “A” designates all lands in the City of Brockville into Zones. Schedule “A” forms an important part of the By-law, as it indicates where the Zone provisions (Sections 5.0 – 7.0) will apply.

Schedule “B” applies only to the Downtown and Central Waterfront Area in the City of Brockville. It shows the application of special provisions for building heights and lot and building requirements. Schedule “B” is to be read in conjunction with Schedule “A” as well as the text of the By-law.

HOW TO CHECK ZONING AND IDENTIFY APPLICABLE REGULATIONS FOR A PROPERTY

1. IDENTIFY THE PROPERTY’S ZONING ON SCHEDULE “A”

To check the zoning for a property, the reader should first identify the property of interest on Schedule “A”. Each property is associated with a zone symbol.

Some properties will have more than one zone symbol that applies. If this is the case, then the permitted uses will vary on the property. For example, if a portion of a property is zoned “EP”, then only the uses permitted in the EP zone will only be permitted in the lands shown as being zoned EP. Section 1.0 contains provisions for interpreting the maps and the boundaries of zones.

Additionally, some properties will have a zone symbol that contains suffixes or prefixes:

a) If the Zone symbol is preceded by a “T-”, then a temporary by-law has been passed, permitting a temporary use on the property. The provisions for each temporary zone are organized into Subsections 5.3, 6.3 and 7.3. There are few properties in the City of Brockville that are subject to a “T-”.

b) If a number follows the Zone symbol, such as “-3”, then the property is subject to the provisions of a special exception zone. The provisions for each individual special exception zone are organized into Subsections 5.3, 6.3 and 7.3. A special exception zone may include provisions that supersede other relevant provisions of the Zoning By-law. Typically, the provisions of the base zone symbol will still apply to the property, except where they are specifically excepted. For example, the special exception

R1-1 may still be subject to the provisions of the R1 zone, in addition to the provisions of the special exception.

c) If an “H” and a number appear before the Zone symbol, such as “H1-”, then holding provisions apply. Where any holding is shown, only existing uses are permitted on a property until the holding is lifted by a by-law of Council. A property may be subject to multiple holding provisions, such as “H1, H2, H3”. The reader should refer to Section 4.0 to understand the meaning of each holding provision.

Some properties may be located within an area shown on Appendix 1 as the “Cataraqui Region Conservation Authority Screening Area”. In this case, the provisions of Subsection 3.10 of the By-law apply. The Screening Area is intended to inform the reader that development or placing/removing fill on a property may be subject to a permit from the Conservation Authority, in addition to complying with the Zoning By-law. Appendix 1 does not form an operative part of the By-law: it is provided for information purposes only.

Additionally, for informational purposes, Appendix 2 illustrates the location of the TransCanada, Trans-Northern and Enbridge main pipelines, which cross the City of Brockville. Additional regulations may apply to properties in proximity to these pipelines. Affected persons should discuss their project with the City to determine how the pipelines could affect their project.

2. IDENTIFY PERMITTED USES

Once the reader identifies the applicable Zone symbol for the property of interest, the reader should refer to Sections 5.0 – 7.0 to identify the types of uses that are permitted on the property.

a) If the identified Zone symbol is a Residential Zone (the symbol has an “R”), then the permitted uses for the property will be listed by Zone in Subsection 5.1.

b) If the identified Zone symbol is a Commercial or Mixed Use zone (the symbol has an “M” or a “C”), then the permitted uses for the property will be listed by Zone in Subsection 6.1.

c) If the identified Zone symbol is a Non-Residential or Non-Commercial Zone (the symbol has neither an “R”, “M” or “C”), then the permitted uses for the property will be listed in Subsection 7.1.

If the property is a special exception zone or temporary zone, as identified in Step 2, the special exception may contain specific provisions regarding the types of uses permitted on the property. If the property is subject to any holding symbol, then only the legally existing uses on the property are permitted. The reader should refer to Section 4.0 to understand the holding symbols.

3. IDENTIFY LOT AND BUILDING REQUIREMENTS

Next, the reader should understand the requirements for lots and buildings, such as minimum lot size requirements, lot frontage requirements, yard setbacks, building height and other requirements. The lot and building requirements are outlined in Subsection 5.2 for Residential Zones, Subsection 6.2 for Commercial and Mixed Use Zones and Subsection 7.2 for Non-Residential and Non-Commercial Zones.

If the property is a special exception zone, as identified in Step 2, the special exception may contain specific provisions regarding lot and building requirements for the property.

4. IDENTIFY WHETHER THE PROPERTY IS SUBJECT TO SCHEDULE “B”

The reader should review Schedule “B” to determine whether additional lot and building requirements apply to their property. Schedule “B” applies only to the Downtown and Central Waterfront Area, and outlines special requirements for building location and form and building heights.

5. IDENTIFY APPLICABLE GENERAL PROVISIONS

The reader should review all of the General Provisions in Section 3.0 to identify provisions that are applicable for their project or property. The General Provisions contain special requirements for uses, buildings and structures that are considered accessory to permitted uses (such as requirements for swimming pools, detached garages, etc.). The General Provisions also include detailed requirements for the provision of parking and loading facilities. The General Provisions also contain requirements that are specific to certain uses, such as automobile service stations and gas bars. Further, the General Provisions contain requirements that are only applicable to certain situations (such as properties located within close proximity to railways). The General Provisions apply to all zones, unless specifically stated otherwise.

LEGAL NON-CONFORMING USES AND LEGAL NON-COMPLYING STRUCTURES (‘GRANDFATHERING’)

Any uses, structures or buildings that were legal before this Zoning By-law was passed will continue to remain legal. In other words, if a use, building or structure was established legally (in compliance with any Zoning By-laws at the time, if any), and the new Zoning By-law changes the permissions or lot and building requirements, the legally established use, buildings or structures will continue to remain legal.

Uses of land and buildings that were established legally but are no longer permitted by the Zoning By-law are referred to as “legal non-conforming uses.” Buildings and structures that were established legally but no longer comply with the By-law’s lot and building requirements are referred to as “legal non-complying buildings and structures.”

Subsection 34(9) of the *Planning Act* establishes an owner’s rights to continue to use a property that was legally built and the use legally established. A non-conforming use will remain legal provided the use was been continuous and there has been no intent to abandon the use.

Where a legal non-conforming use has been interrupted due to damage, the legal non-conforming use is considered to be continuous, provided that the owner has maintained an intent to reconstruct, repair or re-establish the use.

Subsection 3.23 applies to legally non-conforming uses and legally non-complying buildings and structures. This By-law does not prohibit the repair, improvement or reconstruction of legally non-conforming or non-complying buildings and structures. However, additions and expansions to legally non-conforming uses and structures would require an amendment to this By-law or permission from the Committee of Adjustment. For non-complying buildings or structures, a minor variance may be required from the Committee of Adjustment for expansions into the particular setback(s) that the building no longer complies with.

Furthermore, the Zoning By-law recognizes any previously approved building permits granted prior to the passing of this Zoning By-law.

MINOR VARIANCES AND ZONING BY-LAW AMENDMENTS

If a proposed project does not comply with the permitted uses or the lot and building requirements of the Zoning by-law, an owner may apply for a minor variance from the Committee of Adjustment to seek relief from the Zoning By-law’s requirements. If the necessary relief is not minor in nature, an applicant may apply for a Zoning By-law Amendment.

TRANSITION OF APPROVALS AND APPLICATIONS MADE UNDER ZONING BY-LAW 194-94

In some cases, an owner or occupant of a property may have applied for a building permit, minor variance, consent, site plan or plan of subdivision prior to this new Zoning By-law coming into effect. Subsection 1.13 of this new Zoning By-law includes provisions to assist with the transition from prior Zoning By-law 194-94. Note that these provisions become invalid three years after the By-law is passed.

Applications made under Zoning By-law 194-94:

If a complete application was received for a building permit, minor variance, consent, site plan, or plan of subdivision prior to the date of passing of this new Zoning By-law, the complete application will effectively be considered under the requirements of former Zoning By-law 194-94.

Approvals made under Zoning By-law 194-94:

Approvals made under Zoning By-law 194-94 will continue to be effective, as follows:

a) **Building Permits:** A building permit issued under Zoning By-law 194-94 will continue to be a valid building permit, and any buildings or structures may be erected in accordance with the approved building permit that is granted.

b) **Minor Variances:** A minor variance to Zoning By-law 194-94 that is granted by the Committee or Adjustment on or before the date of effect of this new Zoning By-law will continue to be effective, and are modified to the extent necessary to apply to the new Zoning By-law. Buildings or structures may therefore be erected as approved.

c) **Consents:** Consents granted in accordance with the provisions of Zoning By-law 194-94 will be unaffected. Where the consent granted permitted the erection of a dwelling in accordance with Zoning By-law 194-94, the erection of a dwelling shall continue to be permitted under the new Zoning By-law.

d) **Site Plans and Plans of Subdivision:** Any site plan agreement or plan of subdivision agreement that has been entered into prior to the enactment of this Zoning By-law shall be unaffected by the new Zoning By-law. The provisions of this Zoning By-law shall be modified as necessary to give effect to the provisions of the agreement, as may be applicable.

Site Specific Special Exceptions made to Zoning By-law 194-94:

The previously approved site-specific special exception zones passed as an amendment to former Zoning By-law 194-94 have largely been carried forward into this Zoning By-law. In some cases, special exceptions were no longer required since the provisions of the Zoning By-law were modified, giving entitlement to a use or different lot and building requirements which render the exception unnecessary. These exceptions were not carried forward into the new Zoning By-law.

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