

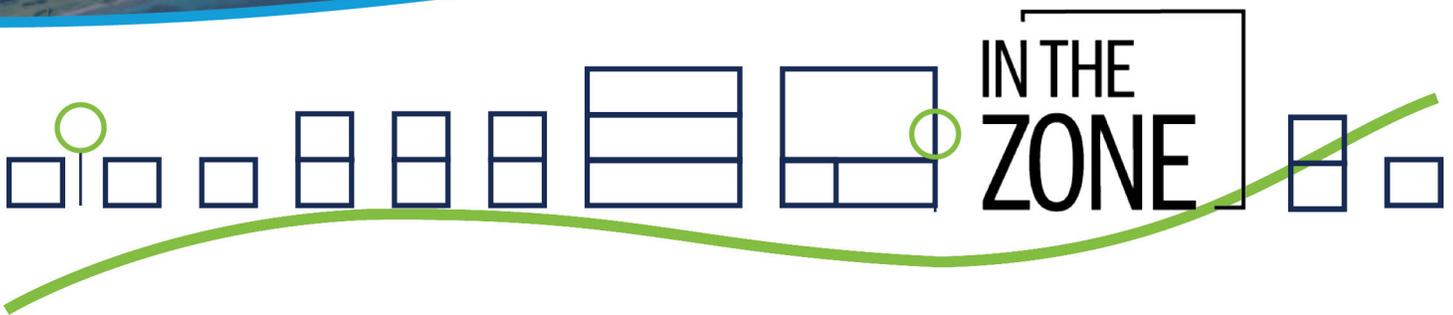
Prepared By:



# Administration Report

Whitby Zoning By-law Review Study

April 2020



Prepared For:





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## Appendix A: Excerpts of Example Zoning By-laws

# 1 Introduction



This report forms part of the Whitby Zoning By-law Review Study, a comprehensive phased undertaking that sets out to update Whitby's existing zoning by-laws into a new single Comprehensive Zoning By-law for the Town. The overall intent of the Zoning By-law Review Study is to create a new zoning by-law that will implement the Official Plan, that is clear, concise and easy to read and which provides necessary land use and built form direction while being flexible in implementation where appropriate.

The objective of this report is to review and evaluate the administration sections of the Town of Whitby's Zoning By-laws.

The undertaking included a review of the administration sections in the Town's existing Zoning By-laws, Zoning By-Law #1784 ("1784"), Zoning By-Law #2585 ("2585") and Oak Ridges Moraine Zoning By-Law #5581-05 ("5581"). The purpose of the review is to understand how each By-law is laid out and if each By-law has components that can be carried forward, if appropriate, into Whitby's new Comprehensive Zoning By-law. The undertaking also included a review of other municipalities' Zoning By-laws to gain insight into new administration-related provisions that should be addressed in the Comprehensive Zoning By-law.

This information is intended to assist in creating effective and clear administration of Whitby's Comprehensive Zoning By-law.

## 2 Existing Zoning By-Laws



### 2.1 Similarities and Differences Between the Existing Zoning By-laws

The review and analysis of Whitby's three existing Zoning By-laws consisted of a comparison of their subsections. **Table 1** provides a comparison of the different subsections of each of the By-laws.

Note, the existing format of the By-laws is such that not all of the sections discussed below are necessarily listed in an existing Administration Section. All three By-laws have sections titled "Administration", and each By-law also contains relevant provisions found outside of these sections. As such, **Table 1** addresses any provision/sections of the By-laws that are broadly related to administration of the By-law.

Since each of the three existing By-laws are organized differently, the administration sections and provisions are laid out in different orders across the By-laws, often under different subheadings. To ease in comparison we have created a summary table. In **Table 1**, the first column describes the intent of the provision in as simple wording as possible, with each of the subsequent columns describing whether or not this provision/intent is addressed in each By-law, and if so, in which section, as well as any relevant notes on that section, whether it be additional wording or concerns with clarity.

**Table 1** also includes provisions related to zone boundaries or establishments of zones, which often, in zoning by-laws, are found in a standalone section, apart from an Administration Section. Whether these should form a standalone section or will be included within an Administration/Interpretation Section in the final By-law, will be further examined in Phase 2 of this Study.

**Table 1** identifies the provisions that are addressed in all three of the By-laws vs. those which are addressed in only one or two of the By-laws. It also identifies where some provisions may be unclear or require an update.

**Table 1: Comparison of Whitby’s Existing Zoning By-laws**

| Administration Provisions  | Zoning By-Law #1784   | Zoning By-Law #2585   | Oak Ridges Moraine Zoning By-Law #5581-05   |
|--|---|---|---|
| <p><b>Title</b><br/>Outlines what the By-law may be referred to as.</p>  | <p>✓<br/>Addressed in Section 1.</p>  | <p>✓<br/>Addressed in Section 1.</p>  | <p>✓<br/>Addressed in Section 1.2.</p>  |
| <p><b>Administrator</b><br/>That a Building Inspector administer the By-law.</p>                                 | <p>✓<br/>Addressed in Section 15a). Refers to “Township” Building Inspector instead of Town.</p>                          | <p>✓<br/>Addressed in Section 27.1).</p>  | <p>✗</p>  |
| <p><b>Building and Other Permits</b><br/>That no building permits be provided if in violation of the By-law.</p> | <p>✓<br/>Addressed in Section 15a). Also addresses approval for any municipal licence in contravention of the By-law.</p> | <p>✓<br/>Addressed in Section 27.2). Wording is a little simpler than in 1784. This Section also references that this provision is not withstanding the provisions of “the Corporation’s Building By-law or any other By-law of the Corporation”, which is unique to this By-law compared to the other two.</p> | <p>✗<br/>Not specifically addressed in relation to building permits, however, the notion of requiring conformity and compliance with the By-law is addressed under Section 1.3, as discussed further below.</p> |

| Administration Provisions  | Zoning By-Law #1784  | Zoning By-Law #2585   | Oak Ridges Moraine Zoning By-Law #5581-05  |
|--|--|---|--|
| That no erection of building or structure or change of use can occur without a permit.   | ✓<br>Addressed in Section 15b).  | ✗<br>Not specifically addressed with regards to a requirement for a building permit, though Section 27.3) does address a similar intent under a need for an Occupancy Permit. | ✗  |
| <b>Conformity and Compliance</b><br>That no person shall change the use or erect a building or structure except in conformity with the By-law. | ✗<br>Not specifically addressed, though Sections 15a) and b) achieve this same intent. | ✓<br>Addressed in Section 6.1). This provision is located in the General Provisions Section.  | ✓<br>Addressed in Section 1.3. This essentially captures the requirement for conformity and compliance with the By-law without speaking to building permits. |
| <b>Certificate of Occupancy</b><br>No change to use, building or structure permitted until a certificate of occupancy is provided.             | ✗  | ✓<br>Addressed in 27.3). However, the provision is confusing and should be simplified if it is carried forward into the new by-law.   | ✗  |

| Administration Provisions   | Zoning By-Law #1784  | Zoning By-Law #2585  | Oak Ridges Moraine Zoning By-Law #5581-05 |
|---|--|--|---|
| <p><b>Application for Permits</b><br/>                     Outlines the submission requirements for a building permit.</p>  | <p>✓<br/>                     Addressed in Section 15b). Provides similar requirements as 2585, in simpler wording. Does not list as requirements: proposed location of landscaped open space, parking and loading, as per 2585.</p> | <p>✓<br/>                     Provides similar wording to 27.4), with a little more detail. Does not list as a requirement: showing services to be used or installed, as per 1784.</p> | <p>x</p>                                  |
| <p><b>Inspection</b><br/>                     The permissions related to property inspections conducted by the Building Inspector. (i.e. Inspector or officer/employee acting under Council can enter during reasonable hours, carrying out duties under the By-law.)</p> | <p>x</p>   | <p>✓<br/>                     Addressed in Section 27.5). Reference to “his duty” for the Building Inspector could be updated to “their” duty to ensure inclusivity.</p>               | <p>x</p>                                  |

| Administration Provisions   | Zoning By-Law #1784  | Zoning By-Law #2585   | Oak Ridges Moraine Zoning By-Law #5581-05  |
|---|--|---|--|
| <p><b>Violations and Penalties/Enforcement</b><br/>Penalties applicable if any provisions of the By-law are violated.</p> | <p>✓<br/>Addressed in Section 16 using the same wording as 2585.</p> | <p>✓<br/>Addressed in Section 27.6) using the same wording as 1784.</p>   | <p>✓<br/>Addressed in Section 1.4. This Section is much more general, speaking to fines liable under the Planning Act, as opposed to the detailed fine provisions outlined in 1784 and 2585.</p> |
| <p><b>Remedies</b><br/>Contravention may be restrained by actions of the Corporation pursuant to the Municipal Act.</p>   | <p>✗</p>   | <p>✓<br/>Addressed in Section 27.7). Wording is very legal and the meaning behind the reference to “at the instance of any ratepayer” is not clear.</p> | <p>✗</p>   |
| <p><b>Validity</b><br/>If a section of the By-law is found to be invalid, the entire By-law is not invalidated.</p>       | <p>✗</p>   | <p>✓<br/>Addressed in Section 27.8).</p>  | <p>✗</p>   |

| Administration Provisions   | Zoning By-Law #1784  | Zoning By-Law #2585  | Oak Ridges Moraine Zoning By-Law #5581-05  |
|---|--|--|--|
| <p><b>Existing By-Laws</b><br/>This By-law governs over any existing By-laws.</p> | <p>x</p>   | <p>✓<br/>Addressed in Section 27.9). The wording of this Section is a bit difficult to follow and may need to be simplified to clarify the intent.</p>               | <p>x</p>   |
| <p><b>Repeal of Existing By-Laws</b><br/>Repeals previous By-laws.</p>            | <p>✓<br/>Addressed in Section 15c).</p>  | <p>~<br/>Not specifically addressed however, Section 27.9) addressed above would have the effect of replacing any By-laws that previously covered the same area.</p> | <p>✓<br/>Addressed in Section 1.1.</p>   |
| <p><b>Location</b><br/>Specifies where the By-law applies.</p>                    | <p>✓<br/>Addressed in Section 3a) i), which also details the zones in the By-law. This By-law (incorrectly) indicates it applies to all lands within the Town.</p> | <p>✓<br/>Addressed in Section 5.1 a), which details the zones in the By-law. This By-law (incorrectly) indicates it applies to all lands within the Town.</p>        | <p>✓<br/>Addressed in Section 1.2, indicating the By-law applies on lands identified in the schedules.</p> |

| Administration Provisions  | Zoning By-Law #1784  | Zoning By-Law #2585  | Oak Ridges Moraine Zoning By-Law #5581-05   |
|--|--|--|---|
| <p><b>Authorization</b><br/>Clerk is authorised to send the Ministry the documents required under the Oak Ridges Moraine Conservation Act.</p> | <p>x<br/>Not applicable, only applies to areas covered by the Oak Ridge Moraine Conservation Act.</p>  | <p>x<br/>Not applicable, only applies to areas covered by the Oak Ridge Moraine Conservation Act.</p>        | <p>✓<br/>Addressed in Section 6.</p>  |
| <p><b>Effective Date/Approval</b><br/>Details when the By-law came into effect.</p>  | <p>✓<br/>Addressed in Section 17.</p>  | <p>✓<br/>Addressed in Section 28.</p>  | <p>✓<br/>Addressed in Section 7.</p>  |
| <p><b>Classification</b><br/>That the lands are divided into a number of zones.</p>  | <p>✓<br/>Addressed in Section 3a)i).</p>   | <p>✓<br/>Addressed in Section 5.1a).</p>   | <p>✓<br/>Addressed in Section 2.1.</p>  |
| <p><b>Symbols</b><br/>Zone may be referred to by name or by symbol.</p>  | <p>~<br/>Somewhat. While Section 3a)i) describes the symbols that apply to each zone, it does not explicitly specify that the Zone may be referred to by the symbol.</p> | <p>✓<br/>Addressed in Section 5.1d). A very legal description that is more complicated compared to 5581.</p> | <p>✓<br/>Addressed in Section 2.1. Compared to 2585, the wording of this subsection is simple and easy to understand.</p> |

| Administration Provisions   | Zoning By-Law #1784   | Zoning By-Law #2585  | Oak Ridges Moraine Zoning By-Law #5581-05  |
|---|---|--|--|
| <p>The zone symbols may be used to refer to lots, buildings, and structures and to the use of lots, buildings and structures permitted by the By-law.</p> | <p>✘</p>  | <p>✓<br/>Addressed in Section 5.1d). The intent of this provision is not very clear.</p>                           | <p>✓<br/>Addressed in Section 2.2. The intent of this provision is not very clear.</p>   |
| <p><b>Schedule</b><br/>That the schedules showing the boundaries of the zones are attached and forms part of the By-law.</p>                              | <p>✓<br/>Addressed in Section 3a)iii)</p>   | <p>✓<br/>Addressed in Section 5.1c). That the schedule form part of the By-law is also addressed in Section 3.</p> | <p>✓<br/>Addressed in Section 2.3. Of the three By-laws, the wording of this subsection is the simplest and easiest to understand.</p> |
| <p><b>Zone Provision</b><br/>Details where the permissions related to the zones are found.</p>  | <p>✓<br/>Addressed in Section 3a)ii). This By-law is unique when compared to the other three as it points to a Table in Schedule A which outlines the numerical requirements for many, but not all, of the zones.</p> | <p>✓<br/>Addressed in Section 5.1b).</p>   | <p>✘</p>   |

| Administration Provisions  | Zoning By-Law #1784  | Zoning By-Law #2585  | Oak Ridges Moraine Zoning By-Law #5581-05  |
|--|--|--|--|
| <p><b>Zone Boundaries</b><br/>Describes what the zone boundaries typically follow or how to interpret if they don't follow some boundary/line.</p> | <p>✓<br/>Addressed in Section 3b). Addresses boundary interpretation related to a) parallel to a street, b) height-of-land of watershed and c) Greenbelt Zone.</p> | <p>✓<br/>Addressed in Section 5.2) Simply indicates that where a zone boundary does not follow another boundary or item, it will be determined to scale.</p> | <p>✓<br/>Addressed in Section 2.4. Addresses similar provisions as 1784, referencing boundaries being parallel to roads and otherwise being determined according to scale.</p> |
| <p><b>Holding Symbols</b><br/>Explains holding symbols restricting development until hold is lifted.</p>   | <p>✓<br/>Addressed for Downtown Brooklin in Section 13</p>   | <p>✓<br/>Addressed for Downtown Whitby in Section 26</p>   | <p>✓<br/>Addressed in Section 2.5</p>  |
| <p><b>Interpretation</b><br/>Definitions and interpretations within By-law shall govern.</p>   | <p>x</p>   | <p>✓<br/>Addressed in Section 4.1). It may be beneficial to move this Section to the Definitions Section.</p>  | <p>x</p>   |

| Administration Provisions  | Zoning By-Law #1784 | Zoning By-Law #2585  | Oak Ridges Moraine<br>Zoning By-Law #5581-05 |
|--|---------------------|--|--|
| Interpretation of present tense and words in singular or plural.   | x                   | ✓<br>Addressed in Section 4.2). The latter half of the Section broadens the understanding of the words “used” and “occupied”, though the wording of the provision is a little confusing. .                 | x  |
| Interpretation of the word “Alter”   | x                   | ✓<br>Addressed in Section 4.3). Provides specific instruction on interpretation of the word “Alter”, though it may be simpler to include this interpretation as a defined term in the Definitions Section. | x  |
| <b>Building, Structure and Use Classification</b><br>The use listed as permitted only applies to those uses specifically listed. | x                   | ✓<br>Addressed in Section 5.3a). It is not clear what this Section is conveying.   | x  |

| Administration Provisions   | Zoning By-Law #1784 | Zoning By-Law #2585   | Oak Ridges Moraine<br>Zoning By-Law #5581-05 |
|---|---------------------|---|--|
| <p>Uses, buildings or structures listed as permitted and classified as Residential or Non-residential may be referred to as Residential or Non-Residential.</p> | <p>x</p>            | <p>✓<br/>Addressed in Section 5.3b). This provision is a little difficult to understand. It appears to permit the classification of some uses as either residential or non-residential.</p> | <p>x</p>                                     |

## 3 Zoning By-law Case Study



Municipalities across Ontario have taken various approaches to the Administration/Interpretation Sections of their By-laws. The following details these approaches and the ways in which other Municipalities' By-laws are similar and different to the current administration-related provisions in the Town of Whitby's Zoning By-laws. Excerpts of the By-laws referenced are provided in **Appendix A**.

The example Zoning By-laws were chosen for review based on a number of different factors, including:

- locale - to review by-laws within southern Ontario;
- approval date - to review more recent by-laws, such as in the case of East Gwillimbury and Vaughan, neither of which are in effect yet;
- clarity - to consider by-laws that had been noted in other planning work as being clear, concise and well organised, such as Milton and Ajax; and
- uniqueness - to review by-laws that brought a unique or interesting element, such as the use of colour in the by-law in St. Catharines or illustrations in Oakville.

### 3.1 Summary Comparison to Whitby Administration Categories

**Table 2** provides a summary of the other By-laws in comparison to the categories in the Whitby By-laws summarized in **Table 1**. The items in the first column of **Table 2** are the same as those in the first column of **Table 1**. As is evidenced by **Table 2**, many of Whitby's Zoning By-law provisions are common to many Zoning By-laws in southern Ontario, with a few that are unique to Whitby.

Following **Table 2**, some other provisions provided in other Municipalities' Zoning By-laws are noted.

**Table 2: Comparison of sections addressed in different municipalities’ Zoning By-laws.**

| Provision/Intent   | Ajax | Barrie | E. Gwillimbury* | Innisfil | Milton | Newmarket | Oakville | St. Catharines | Vaughan -*draft | Welland |
|--|------|--------|-----------------|----------|--------|-----------|----------|----------------|-----------------|---------|
| <b>Title:</b> Outlines what the By-law may be referred to as.  | ✓    | ✓      | ✓               | ✓        | ✓      | ✓         |          | ✓              | ✓               | ✓       |
| <b>Administration:</b> That a Building Inspector administer the By-law.  |      | ✓      |                 | ✓        | ✓      | ✓         | ✓        | ✓              | ✓               | ✓       |
| <b>Building and Other Permits:</b> That no building permits be provided if in violation of the By-law.   | ✓    | ✓      | ✓               | ✓        | ✓      | ✓         | ✓        |                | ✓               | ✓       |
| That no erection of building or structure or change of use can occur without a permit.   | ✓    | ✓      | ✓               | ✓        | ✓      |           |          |                | ✓               |         |
| <b>Conformity and Compliance:</b> No person shall change the use or erect a building/structure except in conformity with the By-law.   | ✓    | ✓      | ✓               | ✓        | ✓      | ✓         | ✓        | ✓              | ✓               | ✓       |
| <b>Certificate of Occupancy:</b> No change to use or building or structure permitted until a certificate of occupancy is provided.   |      |        |                 | ✓        | ✓      |           | ✓        |                |                 | ✓       |
| <b>Application for Permits:</b> Outlines the submission requirements for a building permit.  |      | ✓      |                 | ✓        |        |           | ✓        |                | ✓               |         |
| <b>Inspection:</b> The permissions related to property inspections conducted by the Building Inspector. (i.e. Inspector or officer/employee acting under Council can enter during reasonable hours, carrying out duties under the By-law.) |      | ✓      |                 |          |        |           |          |                |                 |         |
| <b>Violations and Penalties/Enforcement:</b> Penalties applicable if any provisions of the By-law are violated.  | ✓    | ✓      | ✓               | ✓        | ✓      | ✓         | ✓        | ✓              | ✓               | ✓       |

| Provision/Intent   | Ajax | Barrie | E. Gwillimbury* | Innisfil | Milton | Newmarket | Oakville | St. Catharines | Vaughan -*draft | Welland |
|--|------|--------|-----------------|----------|--------|-----------|----------|----------------|-----------------|---------|
| <b>Remedies:</b> Contravention may be restrained by actions of the Corporation pursuant to the Municipal Act.                                      |      |        |                 |          |        |           |          |                |                 |         |
| <b>Validity:</b> If a section of the By-law is found to be invalid, the entire By-law is not invalidated.  | ✓    | ✓      | ✓               | ✓        | ✓      | ✓         | ✓        | ✓              | ✓               | ✓       |
| <b>Existing By-Laws:</b> This By-law governs over any existing By-laws.  |      |        |                 |          |        |           |          |                |                 |         |
| <b>Repeal of Existing By-Laws:</b> Repeals previous By-laws.   | ✓    | ✓      | ✓               | ✓        | ✓      | ✓         | ✓        | ✓              |                 | ✓       |
| <b>Location:</b> Specifies where the By-law applies.   |      | ✓      | ✓               | ✓        | ✓      | ✓         | ✓        | ✓              | ✓               | ✓       |
| <b>Authorization:</b> Clerk is authorised to send the Ministry the documents required under the Oak Ridges Moraine Conservation Act.               |      |        |                 |          |        |           |          |                |                 |         |
| <b>Effective Date/Approval:</b> Details when the By-law came into effect.  | ✓    | ✓      |                 | ✓        | ✓      | ✓         |          | ✓              |                 | ✓       |
| <b>Classification:</b> That the lands are divided into a number of zones.  |      |        |                 | ✓        |        | ✓         |          | ✓              |                 |         |
| <b>Symbols:</b> Zone may be referred to by name or by symbol.  |      |        |                 | ✓        |        | ✓         |          |                |                 | ✓       |
| The zone symbols may be used to refer to lots, buildings, and structures and to the use of lots, buildings and structures permitted by the By-law. |      |        |                 | ✓        |        | ✓         |          |                |                 |         |
| <b>Schedule:</b> That the schedules showing the boundaries of the zones are attached and forms part of the By-law.                                 |      |        | ✓               | ✓        | ✓      | ✓         | ✓        | ✓              |                 | ✓       |

| Provision/Intent   | Ajax | Barrie | E. Gwillimbury* | Innisfil | Milton | Newmarket | Oakville | St. Catharines | Vaughan -*draft | Welland |
|--|------|--------|-----------------|----------|--------|-----------|----------|----------------|-----------------|---------|
| <b>Zone Provision:</b> Details where the permissions related to the zones are found.   |      |        |                 | ✓        |        |           |          | ✓              |                 |         |
| <b>Zone Boundaries:</b> Describes what the zone boundaries typically follow or how to interpret if they don't follow some boundary/line.                 |      |        |                 | ✓        |        | ✓         |          | ✓              |                 | ✓       |
| <b>Holding Symbols:</b> Explains holding symbols restricting development until hold is lifted.   |      |        |                 | ✓        |        |           |          |                |                 | ✓       |
| <b>Interpretation:</b> Definitions and interpretations within By-law shall govern.   | ✓    |        |                 |          |        |           |          |                | ✓               |         |
| Interpretation of present tense and words in singular or plural.   |      |        |                 |          |        |           |          |                | ✓               |         |
| Interpretation of the word "Alter"   |      |        |                 |          |        |           |          |                |                 |         |
| <b>Building, Structure and Use Classification:</b> The use listed as permitted only applies to those uses specifically listed.                           |      |        |                 |          |        |           |          |                |                 |         |
| Uses, buildings or structures listed as permitted and classified as Residential or Non-residential may be referred to as Residential or Non-Residential. |      |        |                 |          |        |           |          |                |                 |         |

\*Note: The East Gwillimbury Zoning By-law is currently under appeal and the Vaughan Zoning By-law is draft, not yet approved by Council.

## **3.2 Additional Administrative Provisions**

### **3.2.1 Town of Ajax**

Some key Administrative provisions that are included in the Ajax By-law that are not included in the Whitby By-laws include:

#### Permitted Uses

- That if a use is defined but not listed as a permitted use by a zone or site specific provision, it is prohibited (Under 1.2 Conformity and Compliance with By-law);

#### Other Laws and By-laws

- Compliance with the By-law does not relieve obligation under other By-laws or laws in the Municipality, Region, Province or Country (Under 1.4, Interpretation);

#### Zone Boundaries

- Interpretation of a zone boundary along the shoreline (Under 2.4ii), Determining Boundaries);
- Interpretation where a lot is split between two zones (Under 2.4vi), Determining Boundaries).

### **3.2.2 City of Barrie**

In addition to the provisions common with the Town of Whitby's Zoning By-laws provisions, the City of Barrie By-law includes the following unique Administrative provisions:

#### Transition

- Where a minor variance was approved under the previous By-law, the previous By-law will continue to apply as necessary until 2 years after approval of the new Zoning By-law, to give effect to the decision (under 1.7 Committee of Adjustment Variance Approvals);

#### Successor Statutes

- That where any Federal or Provincial Statutes are referenced in the By-law, any successor or amended Statutes apply (Under 2.7 Federal and Provincial Statutes).

### **3.2.3 Town of East Gwillimbury (under Appeal)**

Some Administrative provisions that were included by the Town of East Gwillimbury but not the Town of Whitby Zoning By-laws include:

#### Transition

- The By-law is deemed to be modified, as needed, to allow for a building permit to be issued for a previously approved site plan or site plan agreement within two years of the effective date of the By-law (Under 1.9 Site Plan Agreements and Site Plan Approvals);
- The provisions of the By-law are deemed to be modified, as needed to implement previously approved minor variances (Under 1.10 Minor Variances);

#### Technical Changes

- A provision permitting technical changes without amendments to the Zoning By-law (Under 1.12 Technical Revisions to the Zoning By-law);

#### Successor Statutes

- The latest in-effect version of any Act referred to in the By-law shall be relied upon (Under 1.7 References to Provincial Acts).

### **3.2.4 Town of Innisfil**

The Town of Innisfil's Zoning By-law includes the following Administrative provisions that are not found in the Town of Whitby's By-laws:

#### Interpretation

- The words "must" or "shall" are mandatory while the word "may" is not mandatory (Under 1.5 Mandatory Wording and 1.6 Discretionary Wording);

### Illustrations

- “Examples and illustrations are for the purpose of clarification and convenience, and do not form part of this By-law” (Under 1.8. Examples and Illustrations);

### Transition

- A number of transition provisions are provided related to:
  - Building Permits filed before the passage of the by-law;
  - Minor Variances approved prior to the approval of the by-law;
  - Now deficient lots created legally by consent prior to approval of the by-law; and
  - Site Plan agreements entered into, and not lapsed, prior to the approval of the by-law.

The provisions indicate the by-law “shall be deemed to be modified to the extent necessary” to give effect to such Building Permits, Minor Variance decisions, consents and site plan agreements (Under 1.16 Transition Provisions);

- That the “By-law does not affect the rights of any person or landowner concerned in any action, litigation or other proceeding pending on the date of final passage, except to the extent to be determined in the final adjudication of action, litigation or other proceedings” (Under 1.10 Litigation);

### Technical Changes

- There are provisions permitting technical amendments without a zoning by-law amendment. These include technical revisions related to grammar, mathematical corrections, boundaries, numbering, title blocks and legends, illustrations, the preamble and removal of a hold (Under 1.15 Technical Revisions to the Zoning By-law).

### **3.2.5 Town of Milton**

The Town of Milton’s by-law includes Administrative provisions that are not found in the Town of Whitby’s By-laws:

#### Interpretation of Definitions

- Definitions are italicized in the By-law and are defined in the Definitions (Under 1.12 Definitions);

## Illustrations

- Illustrations are present for the purpose of clarification and convenience and do not form part of this By-law (Under 1.3 Illustrations).

### **3.2.6 Town of Newmarket**

In the Interpretation and Administration Section in the Town of Newmarket Zoning By-Law many of the same provisions are covered as in the Town of Whitby's By-laws. In addition to these provisions, the following additional provisions are included:

#### Other Laws and By-laws

- A provision that adhering to the By-law does not relieve obligations to comply with other By-laws and laws. (Under 1.4 Interpretation); and
- That other regulations, such as by the Lake Simcoe Region Conservation Authority or Ministry of Transportation, may apply and proof of compliance may be needed. (Under 1.5 Permits).

### **3.2.7 Town of Oakville**

The Town of Oakville Zoning By-law 2014-014, which applies to lands south of Dundas Street has Administrative provisions that are not addressed in the Whitby By-laws, including:

#### Other Laws and By-laws

- Adhering to this By-law does not relieve obligations to comply with other By-laws and laws (Under 1.5 Compliance with Other Legislation);

#### Illustration and Examples

- That any examples and illustrations are for the purpose of explanation, clarification and convenience and do not form part of this By-law (Under 1.9 Clarification and Convenience).

### **3.2.8 City of St. Catharines**

The Administration Section of the St. Catharines by-law specifies the following additional Administrative provisions:

### Interpretation of Definitions

- Unless otherwise defined, words and phrases used in the By-law have their common meaning (Under 1.1.4 Definitions);

### Utilities

- Nothing in this By-law shall prevent the use of land for uses of public utility by a regulated company or government agency (Under 1.1.5 Public Utilities).

### **3.2.9 City of Vaughan (Draft)**

The Corporation of the City of Vaughan's Draft Comprehensive Zoning By-law covers many of the same provisions as the By-laws detailed above.

### Transition

- Provisions address transition, including the lapse of transition provisions after 5 years, with the repeal of the transition provisions section (i.e. Section 1.5) without the need for an amendment of the by-law (Under 1.5 Transition);

### Technical Changes

- Specific changes, including to numbering, format, styles, headings, the order of tables and schedules, technical information on schedules, illustrations and diagrams and references to updated legislation, can be made to the by-law without a need for an amendment (Under 1.10 Technical and Editorial Revisions);

### Definitions

- Unless defined, words have their normal meaning (Under 1.9.1 Wording);

### Interpretation

- That the words "must" and "shall" are mandatory (Under 1.9.1 Wording);
- If defined terms are not underlined or references to legislation not italicised, their meaning still applies (Under 1.9.3 Character Styles);
- A hyphenated suffix consisting of numbers on Schedule A shall be considered a site-specific zone exception (Under Section 1.9.4 Site Specific Zoning Amendments);

### Abbreviations

- A list of abbreviations and terms along with their interpretations for the purpose of the By-law are provided. Examples include “m” for metres, “min” for minimum or GFA for gross floor area (Under 1.9.2 Abbreviations);

### Legal non-conformity and Legal Non-compliance

- Legal Non-Conformity and Legal Non-Compliance (Under 1.7 Legal Non-Conformity and 1.8 Legal Non-Compliance);

### “Used For”

- The Draft Vaughan By-law addresses the use of the term “used for” to include ‘arranged for’, ‘intended for’, ‘maintained for’, ‘designated for’, or ‘occupied for’ (Under 1.9.1 Wording).

## **3.2.10 The City of Welland**

In addition to many provisions that are also seen in other examined By-laws, this By-law includes the following unique provisions:

### Decimal Places

- Calculations of the regulations of this By-law shall be to one decimal place. (Under Section 1.5 Level of Accuracy);

### Abbreviations

- The abbreviations that are used throughout the document are listed along with their interpretation. (Under Section 1.6 Abbreviations); and

### Mathematical Rules

- All measurements of length, area or height used to determine compliance with the By-law shall be subject to the normal mathematical rules. (Under Section 1.7 Measurements).

## 4 Official Plan Direction



As part of the Zoning By-law Study, the new Comprehensive Zoning By-law will conform with the Town of Whitby Official Plan. The Whitby Official Plan was recently updated through a comprehensive review which received final approval in June of 2018. A review of the Official Plan identified policies that may relate to the administration of the Comprehensive Zoning By-law. Such policies include:

- Policy 10.1.6.6 which permits technical changes to the By-law without an amendment, where related to “renumbering sections, correcting errors, minor editorial changes, or minor map changes, provided the intent of the Zoning By-law is maintained.”;
- Policy 10.1.7.1 which permits the use of a holding symbols related to specific circumstances, including phasing, services, utilities, road improvements, development constraints and land assembly;
- Policy 10.1.7.2 which outlines which permitted uses may be permitted in the Zoning By-law while a Holding by-law is in place; and
- Policy 10.1.7.3 which outlines that the Zoning By-law must both identify what conditions are needed to be met for the Holding symbol to be removed and that Council may consider applications to lift the Holding by-law.

## 5 Considerations for a new Administration Section



From the analysis provided in Section 2 and 3 of this report, there are some consistencies and inconsistencies identified across the Administration Sections of the existing Whitby Zoning By-laws, as well as some similarities and differences between the Whitby by-laws and the other example zoning by-laws that were reviewed.

There are a number of basic administration provisions which are typical to both the existing Whitby Zoning by-laws and the example by-laws that should be incorporated into the Administration Section of the new Whitby Zoning By-law, including, for example:

- Title,
- Location or defined area,
- Violations and penalties,
- Repeal of existing or preceding by-laws,
- Zone classifications, and
- Holding zones and symbols.

The by-law should also contain interpretation provisions such as:

- Symbols,
- Zone boundaries,
- Interpretation of tense, singular and plural, and
- Validity

There are a number of provisions in the existing Whitby By-laws which are not commonly found in other by-laws, and may not be suitable for inclusion in the Comprehensive Zoning By-law. For example, the provision classifying a use as residential or non-residential, or the interpretation of the word Alter, which may be better placed in the Definitions Section. Other provisions may not be needed in the by-law, if they are already addressed by other legislation or by-laws such as the Building Code.

The example zoning by-laws contain a number of administration and interpretation provisions that may be useful for the Comprehensive Zoning By-law including:

- Transition provisions,
- The use of illustrations,
- Technical changes not requiring an amendment, and
- Use of “shall” or “must”.

The next phase of this Study will examine which of these provisions, or others, may be suitable for inclusion in the Whitby Comprehensive Zoning By-law.

## 6 Conclusion



As it relates to administration, this report has identified some commonalities and inconsistencies between the three existing Whitby Zoning By-laws. The review of other Municipalities' Zoning By-laws has identified which of the provisions in the Whitby Zoning By-laws are standard, and which are unique to Whitby or less common. It also identified a number of common provisions that other Municipalities' Zoning By-laws address that the Whitby Zoning By-laws do not address.

In Phase 2 of this Study, the information collected and summarised in this report will be further examined and a list of administrative sections and provisions will be considered and evaluated. Of note, the next steps in Phase 2 will include consideration of:

- which of the provisions from the existing Whitby Zoning By-laws should be brought forward into the Comprehensive Zoning By-law;
- where there are multiple examples of wording of the same provision/intent amongst the three By-laws, which is the most appropriate to be brought forward into the Comprehensive Zoning By-law;
- whether any updates or revisions to the provisions being carried forward to the Comprehensive Zoning By-law, per the comments noted in **Table 1**, are needed;
- which of the administration provisions identified in other Municipalities' Zoning By-laws should be introduced into the Comprehensive Zoning By-law;
- should all the information be addressed in one comprehensive Administration Section, or are multiple sections, such as Interpretation vs. Administration, warranted?

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# Appendix A



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**SECTION 1**  
**INTERPRETATION AND ADMINISTRATION**

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**1.1 TITLE**

This By-law may be referred to as the "Town of Ajax Zoning By-law" and applies to all lands within the Town of Ajax.

**1.2 CONFORMITY AND COMPLIANCE WITH BY-LAW**

No *person* shall change the *use* of any *building, structure* or land or erect or *use* any *building* or *structure* or occupy any land or *building* except in accordance with the provisions of this By-law. Any *use* not specifically permitted by this By-law shall not be permitted in the Town of Ajax. A *use* which is defined but not identified within a permitted *use* table in any zone or by exception is not permitted.

**1.3 BUILDING PERMITS**

The requirements of this By-law must be met before a *building* permit is issued for the erection, addition to or alteration of any *building* or *structure*.

**1.4 INTERPRETATION**

Nothing in this By-law shall serve to relieve any *person* from any obligation to comply with the requirements of any other By-law of the Town of Ajax or any other regulation of the Regional Municipality of Durham, Province of Ontario or Government of Canada that may otherwise affect the *use* of lands, *buildings* or *structures* in the Town of Ajax.

**1.5 ENFORCEMENT**

Any *person* or corporation that contravenes any provision of this By-law is guilty of an offense and upon conviction is liable to the fine as provided for in the Planning Act, R.S.O. 1990, Chapter P.13 as amended.

**1.6 SEVERABILITY**

A decision of a court that one or more of the provisions of this By-law are invalid in whole or in part does not affect the validity, effectiveness or enforceability of the other provisions or parts of the provisions of this By-law.

**1.7 EFFECTIVE DATE**

This By-law shall come into force the day it was passed.

**1.8 REPEAL OF FORMER BY-LAWS**

By-law 3036, By-law 3037 and By-law 35-77 of the Town of Ajax and all Amendments thereto are hereby repealed.

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## SECTION 2 ESTABLISHMENT OF ZONES

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### 2.1 ESTABLISHMENT OF ZONES

The following zones are hereby established and they may be referred to by name or by the symbol set opposite the name of the zone below:

| ZONE                                  | SYMBOL |
|---------------------------------------|--------|
| <u>Residential Zones</u>              |        |
| Residential One – ‘A’ Zone            | R1-A   |
| Residential One – ‘B’ Zone            | R1-B   |
| Residential One – ‘C’ Zone            | R1-C   |
| Residential One – ‘D’ Zone            | R1-D   |
| Residential One – ‘E’ Zone            | R1-E   |
| Residential One – ‘F’ Zone            | R1-F   |
| Residential Two – ‘A’ Zone            | R2-A   |
| Residential Two – ‘B’ Zone            | R2-B   |
| Residential Three Zone                | R3     |
| Residential Multiple Four Zone        | RM4    |
| Residential Multiple Five Zone        | RM5    |
| Residential Multiple Six Zone         | RM6    |
| Country Residential Zone              | CR     |
| <u>Commercial and Mixed Use Zones</u> |        |
| Neighbourhood Commercial Zone         | NC     |
| Local Commercial Zone                 | LC     |
| Village Core Mixed Use One Zone       | VC1    |
| Village Core Mixed Use Two Zone       | VC2    |
| Village Core Mixed Use Three Zone     | VC3    |
| Village Core Mixed Use Four Zone      | VC4    |
| General Commercial Zone               | GC     |
| Downtown Mixed Use Zone               | DC     |
| Uptown Mixed Use Zone                 | UC     |
| Automobile Commercial Zone            | AC     |

Downtown Central Area Zones (New zone incorporated By-law 86-2005)

|   |         |
|---|---------|
| Downtown Central Area – Mixed Employment One Zone     | DCA/ME1 |
| Downtown Central Area – Mixed Employment Two Zone     | DCA/ME2 |
| Downtown Central Area – Institutional Zone            | DCA/I   |
| Downtown Central Area – Residential Mixed Use Zone    | DCA/MU  |
| Downtown Central Area – Residential Multiple One Zone | DCA/RM1 |
| Downtown Central Area – Residential Multiple Two Zone | DCA/RM2 |

Employment Zones

|                          |    |
|--------------------------|----|
| Prestige Employment Zone | PE |
| General Employment Zone  | GE |
| Heavy Employment Zone    | HE |

Institutional and Cemetery Zones

|                          |     |
|--------------------------|-----|
| Institutional – ‘A’ Zone | I-A |
| Institutional – ‘B’ Zone | I-B |
| Cemetery Zone            | CE  |

Rural Zones

|                            |    |
|----------------------------|----|
| Permanent Countryside Zone | PC |
| Agricultural Zone          | A  |

Open Space Zones

|                               |     |
|-------------------------------|-----|
| Open Space Zone               | OS  |
| Private Open Space Zone       | POS |
| Golf Facility Zone            | GF  |
| Environmental Protection Zone | EP  |

**2.2 ZONE SYMBOLS**

The zone symbols may be used to refer to *lots, buildings and structures* and to the *use of lots, buildings and structures* permitted by this By-law. By-law Exceptions, Holding Provisions, Temporary Use Zones and Interim Control Zones are identified in Sections 7 and 8 of this By-law.

**2.3 ZONE SCHEDULES**

The zones and zone boundaries are shown on Zoning Schedules which are attached to and form part of this By-law.

## 2.4

### DETERMINING ZONE BOUNDARIES

When determining the boundary of any zone as shown on the Schedules forming part of this By-law, the following provisions shall apply:

- i) a boundary indicated as following a highway, street, *lane*, railway right-of-way, utility corridor or watercourse shall be the centre line of such highway, street, *lane*, railway right-of-way, or utility corridor;
- ii) a boundary shown as following a shoreline shall follow such shoreline, and in the event of change in the shoreline, the boundary shall be construed as moving with the actual shoreline;
- iii) a boundary indicated as following *lot lines* or the municipal boundaries of the Town of Ajax shall follow such *lot lines* or boundary;
- iv) where a boundary is shown parallel to a *street line* and the distance from the *street line* is not indicated, the boundary shall be deemed to be parallel to such a *street line* and the distance from the *street line* shall be determined according to the bar scale shown on the Schedule;
- v) where two or more zones are located on a single *lot* and the distance of the respective zone boundaries is indicated on the Zone Schedules, the boundary shall be determined in accordance with the distances noted on the Zone Schedules;
- vi) where a *lot* is divided into two or more zones the zone boundary dividing the *lot* shall be deemed to be a *lot line* for purposes of calculating required setbacks and coverage, and each portion of the *lot* shall be in accordance with the provisions of this By-law for the applicable zone;
- vii) where none of the above provisions apply, the zone boundary shall be scaled from the Schedule(s).

**1.0 INTRODUCTION**

**1.1 TITLE**

This By-law shall be known as the "Zoning By-law" of the City of Barrie.

**1.2 DEFINED AREA**

The provisions of this By-law shall apply to all lands included within the present boundaries of the Corporation of the City of Barrie.

**1.3 SCOPE**

No lands shall be used and no buildings or structures shall be erected, altered, enlarged or used within the City of Barrie except in conformity with the provisions of this By-law.

**1.4 REPEAL OF EXISTING BY-LAWS**

Except for By-law 85-95 insofar as it applies to the lands legally described as Part of Lots 7 to 9, Concession 12, Township of Innisfil, City of Barrie, which shall continue to remain in full force and effect, and except for the following temporary use by-laws:

| <b>By-law</b> | <b>Description</b>   | <b>Expiry</b>                         |
|---------------|--|---------------------------------------|
| 2016-068      | Lot 3, Plan 51M-634, City of Barrie, County of Simcoe and municipally known as 576 Bryne Drive shall permit a school as a temporary use.<br>Lot 6, Plan 51M-634, City of Barrie, County of Simcoe and municipally known as 111 Commerce Park Drive shall permit playing fields as a temporary use.   | Permitted use until June 27, 2018     |
| 2017-003      | Part Lots 5, 6, 7, Plan 67 and Part Lot 7, Con 12 Innisfil, now in the City of Barrie, County of Simcoe, designated as Parts 1 to 8, Plan 51R34356, save and except Part 1, Plan 51R32351, Barrie, located at the southwest corner of Highway 400 and Harvie Road shall permit an agriculture use as a temporary use subject to the following provisions:<br>a) Agricultural activities are limited to field crops in an open field;<br>b) A 30 metre naturalized buffer must be provided around Lover's Creek and Whiskey Creek;<br>c) Access to the site for farming purposes is restricted to the entrance at Harvie Road; and<br>d) Best Management practices must be applied respecting the use of fertilizer and pesticides. | Permitted use until February 9, 2020. |

which shall remain in full force and effect until their expiry date, all other By-laws passed under Section 34 of The Planning Act, R.S.O. 1990, c.P.13 or predecessor thereof are hereby repealed insofar as it is necessary to give effect to this By-law and such repeal shall come into effect upon the date this By-law comes in force.

**1.5 VALIDITY**

Should any section, clause or provision of this By-law be held by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the remainder of the By-law.

**1.6 EFFECTIVE DATE**

This By-law shall come into effect upon the date of passing thereof.

**1.7 COMMITTEE OF ADJUSTMENT VARIANCE APPROVALS**

With respect to any lands for which a minor variance from the provisions of By-law 85-95 as amended has been authorized by the Committee of Adjustment of the City of Barrie, the provisions of By-law 85-95 as amended, shall continue to apply to the extent necessary to give effect to such decision until the 31<sup>st</sup> day of August 2011.

**2.0 ADMINISTRATION****2.1 ADMINISTRATOR**

This By-law shall be administered by the person designated by the Council of the City of Barrie.

**2.2 VIOLATIONS AND PENALTIES**

Any person who commits a breach of any of the provisions of this By-law shall be guilty of an offence under The Provincial Offences Act, R.S.O. 1990, c P.33 and is liable to the penalties specified under The Planning Act, R.S.O. 1990, c P.13.

**2.3 INSPECTION OF PREMISES**

The Zoning Administrator or an employee of the City of Barrie acting under his/her direction may, with the occupant's permission, at any reasonable hour, enter and inspect a property or premises where there is reason to believe that any land has been used or any building or structure has been erected, altered, enlarged or used in violation of any of the provisions of this By-law.

**2.4 LICENCES AND PERMITS**

No building permit or license shall be issued where the permit is required for a proposed use of land or a proposed erection, alteration, enlargement or use of any building or structure that is in violation of any provisions of this By-law.

**2.5 CHANGE OF USE**

No person shall change the existing use of any lands, building or structure to a different type or class of use without determining that the intended use is in accordance with the provisions of this By-law.

**2.6 APPLICATION FOR BUILDING PERMITS**

Each application for a building permit shall be accompanied by a sworn declaration signed by the owner or a duly authorized agent as to the existing and intended use of each building and structure or part thereof, together with duplicate copies of plans prepared, if deemed necessary, by an Ontario Land Surveyor, showing the shape and dimensions of the lot to be used, any easements applicable to the lot, the location, height and dimensions of the building or structure to be erected, altered, enlarged or used on the lot, the location of any existing buildings or structures on, or directly contiguous to, the lot, and any additional information necessary to ensure that the provisions for the enforcement of this By-law have been met. Prior to the issuance of a building permit, written approval may be required under other applicable laws and regulations such as Ontario Regulation 97/04 under the Conservation Authorities Act.

**2.7 FEDERAL AND PROVINCIAL STATUTES**

References to Federal and Provincial Statutes throughout this By-law shall include any amendments and successors thereto. (By-law 2015-129)

## Part 1.0 - Interpretation And Administration

### 1.1 Title

This By-law may be referred to as the “Town of East Gwillimbury Zoning By-law” and applies to all lands within the Town of East Gwillimbury, as shown on Schedules “A” to “D” of this By-law.

### 1.2 Conformity and Compliance With By-Law

No person shall change the **use** of any **building, structure** or land or erect or **use** any **building** or **structure** or occupy any land or **building** except in accordance with the provisions of this By-law.

Without limiting the generality of the foregoing, this shall include those matters defined as applicable law under Section 1.4.1.3 of Ontario Regulation 350/06 (the *Building Code*).

### 1.3 Interpretation

Nothing in this By-law shall serve to relieve any person from any obligation to comply with the requirements of any other By-law of the **Town** or any other requirement of the **Region** of York, the Province of Ontario or the Government of Canada that may affect the **use** of lands, **buildings** or **structures** in the Town of East Gwillimbury.

Conservation Authority Regulated Areas, shown on Appendix “A”, constitutes an information schedule showing lands subject to the Lake Simcoe Region Conservation Authority regulations. Notwithstanding any other provision of this By-law, written approval of the Conservation Authority shall be obtained and submitted with any **building** permit application and prior to the addition or removal of fill, whether originating on the site or elsewhere for any lands located within the regulated areas. All uses, **buildings** or **structures** shall meet all other provisions of this By-law.

### 1.4 Enforcement

Any person or director or officer of any corporation convicted of a violation of this By-law is liable to penalties in accordance with the provisions of Sections 67 and 67.1 of the Planning Act, R.S.O. 1990, c.P.13, as amended.

## 1.5 Severability

A decision of a court that one or more of the provisions of this By-law are invalid in whole or in part does not affect the validity, effectiveness or enforceability of the other provisions or parts of the provisions of this By-law.

## 1.6 Repeal of Former By-Law and Effective Date

Zoning By-law 97-50 and all amendments thereto are hereby repealed. This By-law shall come into force the day it was passed if no appeals are received. If an appeal(s) is received, this By-law, or portions thereof, shall come into force upon the approval of the Ontario Municipal Board and in accordance with the provisions of the Planning Act, R.S.O. 1990, c.P.13, as amended.

## 1.7 References to Provincial Acts

Where this By-law refers to a Provincial Act, the latest in-effect version of that Act and any relevant section shall be relied upon as necessary.

## 1.8 Expansions to Legal Non-Conforming Uses

Where the Committee of Adjustment or the Ontario Municipal Board has authorized the expansion of a legal **non-conforming use, building or structure** and such a decision has become final and binding after May 20, 1997 and prior to the effective date of this By-law, the provisions of this By-law (as they apply to such **use, building or structure**) are deemed to be modified to the extent necessary to give effect to the decision.

## 1.9 Site Plan Agreements and Site Plan Approvals

Where a site plan agreement has been entered into prior to the effective date of this By-law, or where site plan approval has been granted by the **Town** and a **building** permit for the project in either circumstance has not been issued, the provisions of this By-law, as they apply to such land, **building or structure**, are deemed to be modified to the extent necessary to give effect to such site plan agreement or site plan approval, provided that the **building** permit is issued within two (2) years of the effective date of this By-law.

## 1.10 Minor Variances

Where the Committee of Adjustment or the Ontario Municipal Board has authorized a minor variance in accordance with Section 45(1) of the Planning Act R.S.O. 1990 c.P.13 as amended, in respect of any land, **building or structure** and the decision of the Committee of Adjustment or the Ontario Municipal Board authorizing such minor variance has become

final and binding prior to the effective date of this By-law, the provisions of this By-law, as they apply to such land, **building** or **structure**, are deemed to be modified to the extent necessary to give effect to such minor variance. This provision shall apply only to minor variances that have been granted since April 1, 2017.

This Section shall lapse and is deemed to be deleted two (2) years of the effective date of this By-law. For clarity, this provision shall not require an amendment to this By-law to take effect.

#### 1.11 Illustrations

All illustrations or photos in this By-law are deemed to not be part of this By-law and are included only to assist with the interpretation of the By-law.

#### 1.12 Technical Revisions to the Zoning By-law

Provided that the purpose, effect, intent, meaning and substance of this By-law are in no way affected, the following technical revisions to this By-law are permitted without a zoning by-law amendment:

- a) Changes to the numbering, cross-referencing, format and arrangement of the text, tables, schedules and maps;
- b) Additions to and revisions of technical information on maps and schedules including, but not limited to: **infrastructure** and topographic information, notes, legends, shading and title blocks;
- c) Alterations of punctuation;
- d) Correction of grammatical, dimensional, boundary, mathematical or typographic errors;
- e) Changes to the illustrations or the Preamble, which are not considered to form part of this By-law;
- f) Changes to the Environmental Protection (EP) Zone limits based on an approved Natural Heritage Evaluation; and
- g) Changes to the Lake Simcoe Region Conservation Authority regulated areas and Flood Hazard Lands as shown in Appendix A.

## SECTION 1 INTERPRETATION AND ADMINISTRATION

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### 1.1 TITLE AND SCOPE

This By-law is known as The Zoning By-law of the Town of Innisfil (this By-law) and applies to all lands within the corporate limits of the Town.

### 1.2 APPLICATION

- 1.2.1 No person shall use any land or erect or alter any buildings or structures within a zone, except in conformity and compliance with the provisions of this By-law.
- 1.2.2 No person, other than a public authority, shall reduce any lot by conveyance or otherwise so that it does not meet the requirements of this By-law, or if it did not meet the requirements initially, so that it is further from meeting them.
- 1.2.3 No municipal permit, certificate or license may be issued if the permit is required for a use of land or erection, alteration, enlargement or use of any building or structure that is not in conformity and compliance with this By-law.
- 1.2.4 Despite any other provisions of this By-law, the Chief Building Official of the Town may not issue a building permit for the development or redevelopment of any lands or buildings or structures or any part thereof within the area of the Town affected by this By-law unless in accordance with the provisions of a By-law of the Town enacted pursuant to Section 41 of the *Planning Act*.
- 1.2.5 The lack of a survey, or a mistake or an error or omission by any person required to comply with the provisions of this By-law does not relieve that person from liability for failure to comply with the provisions of this By-law.
- 1.2.6 This By-law shall be administered by a person appointed by the Council of the Town of Innisfil as the Zoning Administrator.
- 1.2.7 The General Provisions section of this By-law is considered to apply to all lands within the Corporate limits of the Town of Innisfil, including those lands not specifically zoned

### 1.3 ZONES AND SYMBOLS

- 1.3.1 Schedule "A" attached forms part of this By-law.
- 1.3.2 For the purpose of this By-law, the Town has been divided into zones, the boundaries which are shown on Schedule "A".
- 1.3.3 Schedule "A" consists of a number of detailed maps for portions of the Town which are located as indicated on the Key Map.

- 1.3.4 The zones are referred to by the following names and symbols and are identified on Schedule "A" by the symbols:

|   | <b>ZONE</b>                        | <b>SYMBOL</b> |
|---|------------------------------------|---------------|
| <b>Residential Zones</b>  |                                    |               |
| a)  | Residential Estate Zone            | RE            |
| b)  | Residential Rural Zone             | RR            |
| c)  | Residential 1 Zone                 | R1            |
| d)  | Residential 1A Zone                | R1A           |
| e)  | Residential 2 Zone                 | R2            |
| f)  | Residential 3 Zone                 | R3            |
| g)  | Residential Semi Detached Zone     | RS            |
| h)  | Residential Townhouse Zone         | RT            |
| i)  | Residential Apartment Zone         | RA            |
| j)  | Residential Special Community Zone | RSC           |
| <b>Commercial Zones</b>   |                                    |               |
| k)  | Commercial Neighbourhood Zone      | CN            |
| l)  | Commercial Village Zone            | CV            |
| m)  | Commercial Highway Zone            | CH            |
| n)  | Commercial Tourist Zone            | CT            |
| o)  | Commercial Business Park           | CBP           |
| <b>Mixed Use Zones (1)</b>  |                                    |               |
| p)  | Mixed Use 1 (Alcona) Zone          | MU1           |
| q)  | Mixed Use 2 (Alcona) Zone          | MU2           |
| r)  | Mixed Use 4 (Lefroy) Zone          | MU4           |
| s)  | Mixed Use 5 (Cookstown) Zone       | MU5           |
| <b>Industrial Zones</b>   |                                    |               |
| t)  | Industrial General Zone            | IG            |
| u)  | Industrial Business Park           | IBP           |
| v)  | Industrial Extractive Zone         | IE            |
| <b>Community Service, Open Space and Environmental Protection Zones</b> |                                    |               |
| w)  | Community Service Zone             | CS            |
| x)  | Open Space                         | OS            |
| y)  | Environmental Protection           | EP            |

|  | <b>ZONE</b>                      | <b>SYMBOL</b> |
|--|----------------------------------|---------------|
| <b>Agricultural and Future Development Zones</b> |                                  |               |
| aa)  | Agricultural General Zone        | AG            |
| ab)  | Agricultural Specialty Crop Zone | ASC           |
| ac)  | Agricultural Rural Zone          | AR            |
| ad)  | Future Development Zone          | FD            |

(1) The MU3 zone category has been reserved for future use for the core area of Alcona.

#### **1.4 ZONE BOUNDARIES**

1.4.1 The zones and zone boundaries are shown on Schedule "A" that are attached to and form part of this By-law.

1.4.2 Respecting the zone boundaries of the zones, the following applies:

- a) Each parcel of land within the Town is provided within a zone category or categories, and thus, the boundary of the parcel forms the zone boundary.
- b) The Environmental Protection (EP) Zone and Open Space (OS) Zone are exceptions to clause a) above in that the boundary reflects the natural features and the location of the boundary may be determined by lot line, road, rail line, or where the zone does not abut any of the above, by the scale of the map.

1.4.3 Where a parcel of land or lot falls into two or more zones, each portion of the parcel of land or lot shall be used in accordance with the provisions of this By-law for the applicable Zone.

#### **1.5 MANDATORY WORDING**

The words "must" or "shall" are mandatory.

#### **1.6 DISCRETIONARY WORDING**

The word "may" is not mandatory. "May" is used to indicate that some circumstances may or may not be applicable.

#### **1.7 DEFINITIONS**

For convenience, terms that are in bold are defined in Section 2 of this By-law. This does not apply to the titles of Sections.

#### **1.8 EXAMPLES AND ILLUSTRATIONS**

Examples and illustrations are for the purpose of clarification and convenience, and do not form part of this By-law.

## 1.9 SEVERABILITY

Should any section, clause, provision or Schedule of this By-law, be held by a court of competent jurisdiction to be invalid, the validity of the remainder of the By-law shall not be affected.

## 1.10 LITIGATION

This By-law does not affect the rights of any person or land owner concerned in any action, litigation or other proceeding pending on the date of final passage, except to the extent to be determined in the final adjudication of action, litigation or other proceedings.

## 1.11 CERTIFICATE OF OCCUPANCY

1.11.1 No land may be used or occupied, and no building or structure which has been erected or altered may be used or changed in use, in whole or in part, until a Certificate of Occupancy by the Town under Section 34 of the *Planning Act* has been issued stating that the proposed use and occupancy of the land, building or structure complies with the provisions of this By-law.

1.11.2 No Certificate of Occupancy, no building permit and no approval of an application for any municipal license shall be issued where the proposed use, building or structure, is contrary to the provisions of this By-law.

1.11.3 Notwithstanding Subsection 1.11.2, Section 1.11 shall only apply to non-residential uses and multiple residential uses including any use having a dwelling unit as an accessory use.

## 1.12 NEED FOR COMPLIANCE WITH OTHER LAWS

Nothing in this By-law shall exempt any person from complying with the requirements of any other legislation or by-law in force or from obtaining any license, permission, permit authority or approval required by this by-law, any other by-law or any other legislation.

Where Conservation Authority Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses (O. Reg. 172/06 and 179/06), are in force and effect, a permit from the Conservation Authority having jurisdiction, shall be obtained pursuant to the provisions of the *Conservation Authorities Act* prior to the following:

- a) the construction, reconstruction or erection of a building or placing of fill';
- b) changes that would alter the use, or potential use, size or dwelling units of a building or structure; and
- c) works within or around a wetland or watercourse.

Lands that are regulated include floodplains, erosion hazards, wetlands, watercourses, hazardous soils and shorelines.

### **1.13 VIOLATIONS AND PENALTIES**

Any person who contravenes this By-law is guilty of an offence and, each day a breach of this By-law continues, constitutes a separate offence and on summary conviction, the offender is liable to a fine as provided for under the *Planning Act*.

### **1.14 REPEALS OF PREVIOUS BY-LAWS**

All By-laws in force within the Town of Innisfil regulating the use of lands and the character, location, bulk, height and use of land, buildings are hereby amended insofar as is necessary to give effect to the provisions of this By-law and the provisions of this By-law shall govern.

### **1.15 TECHNICAL REVISIONS TO THE ZONING BY-LAW**

Provided that the purpose and effect of this By-law is unaffected, the following technical revisions to this By-law shall be permitted without a Zoning By-law Amendment:

- a) Correction to grammatical, mathematical, boundary or other such errors, including minor technical revisions to the mapping consistent with the intent of this By-law and the Town's Official Plan;
- b) Changes to the numbering of sections, the numbering contained in the cross-referencing of sections, and the format and arrangement of the text, tables, schedules and maps, and the numbering of pages;
- c) Corrections or revisions to the technical information contained on maps, such as the title blocks and legend;
- d) Changes to the illustrations or the Preamble, which are not considered to form part of this By-law; and
- e) Changes resulting from the removal of a holding symbol.

### **1.16 TRANSITION PROVISIONS**

#### **1.16.1 Building Permit Applications**

Nothing in this By-law shall prevent the erection or use of a building or structure for which an application for a building permit was filed on or prior to the date of passage of this By-law, if the application complies, or the building permit application is amended to comply, with the provisions of the applicable former Zoning By-law provisions as it read on the date of passage of this By-law. For the purposes of this section, an application for a building permit means an application for a building permit which satisfies the requirements set out in the Building Code Act, as amended.

#### **1.16.2 Minor Variance**

Where the Committee of Adjustment of the Town or the Ontario Municipal Board has authorized a minor variance, in respect of any land, building or structure and the decision

of the Committee of Adjustment of the Town or the Ontario Municipal Board authorizing such minor variance has become final and binding prior to the enactment of this By-law, the provisions of this By-law, as they apply to such land, building or structure, shall be deemed to be modified to the extent necessary to give effect to such minor variance.

### 1.16.3 Consent

a) Where:

- i. an application is made for consent to convey land under Section 50 of the *Planning Act*, prior to enactment of this By-law; and,
- ii. that consent is granted and that land is conveyed before the consent lapses; and,
- iii. that consent results in the creation of one or more lots which do not comply with the lot frontage or lot area requirements of this By-law; then, each such lot created is deemed to comply with the lot frontage and lot area requirements of this By-law provided the lot created complies with the lot frontage and lot area requirements of the applicable zoning prior to the date of adoption of this By-law.

b) Where:

- i. an application for consent has been approved and a long form certificate has been issued by the Town in accordance with Section 53(42) of the *Planning Act*; and
- ii. the conveyance has not occurred prior to the date of adoption of this Zoning By-law; such lot shall be deemed to comply with the lot frontage and lot area of the zone in which the lot is located; provided such lot complied with the lot frontage and lot area requirements of the applicable zoning prior to the date of adoption of this By-law.

### 1.16.4 Site Plan

Where a Site Plan Agreement has been entered into prior to the effective date of this By-law, and the timeframes specified in the Agreement have not yet lapsed, the provisions of this By-law, as they apply to such land, building or structure, shall be deemed to be modified to the extent necessary to give effect to such Site Plan Agreement.

### 1.17 EFFECTIVE DATE

This By-law comes into force and takes effect on the day it is finally passed by Council of the Corporation of the Town of Innisfil subject to the appeal provisions set out in the *Planning Act*.

## **SECTION 1 INTERPRETATION AND ADMINISTRATION**

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### **1.1 TITLE**

This By-law may be referred to as the “Town of Milton Zoning By-law – HUSP Urban Area”. The provisions of this Urban Area By-law shall apply throughout the Corporation of the Town of Milton, to lands identified on the Zoning Map for the HUSP Urban Area, being Schedule A to this By-law, and generally bounded by No. 5 Side Road to the north, Sixth Line to the east, Britannia Road to the south and Tremaine Road to the west and shown on Schedule A to this By-law.

Notwithstanding the above, this By-law does not apply to the following lands:

- a) Any other lands identified on Schedule ‘A’ of this By-law as being subject to By-law 144-2003, as amended.

### **1.2 ADMINISTRATION**

- i) This By-law shall be administered by the Chief Building Official of the Town of Milton or his or her designate.
- ii) Where the Chief Building Official or his or her designate has reason to believe that any person has used land or erected or used any *building* or *structure* in contravention of this By-law he or she or his or her designate, may at any reasonable hour enter and inspect any land or *building* or *structure* in respect of which it is believed the contravention is occurring, subject only to any other requirement at law.

### **1.3 ILLUSTRATIONS**

Illustrations provided in the Appendix to this By-law are for the purposes of clarification and convenience and do not form part of this By-law.

#### **1.4 CONFORMITY AND COMPLIANCE WITH BY-LAW**

No person shall *use*, effect or alter any lands, *buildings*, or *structures* unless the *use*, land or *building* defined or otherwise, is specifically permitted in accordance with the provisions of this By-law.

No change may be made in the type of *use* of any land, *Building* or *Structure* within any *zone* category without first having applied for and obtained a Certificate of Occupancy (Zoning) from the Chief Building Official or his or her designate to the effect that the proposed *use* is not contrary to this By-law. Notwithstanding the above, no Certificate of Occupancy (Zoning) shall be required by a *Public Authority* or for any type of *dwelling unit* with the exception of *Bed and Breakfast Establishment, Cottage Industry, Retirement Dwelling, Home Industry, Home Occupation, Group Home, Correctional, Group Home Type 1* and *Group Home Type 2*.

Nothing in this By-law shall exempt any person from complying with the requirements of any By-law in force within the Town, or from obtaining any *building* permit, license, permission, permit, authority or approval required by this or any other By-law of the Town or by any other law in force at the time.

#### **1.5 INTERPRETATION**

The provisions of this By-law are the minimum requirements except where a maximum requirement is also specified to apply under this By-law.

Nothing in this By-law shall serve to relieve any person from any obligation to comply with the requirements of any other By-law of the Town of Milton or any requirement of the Region of Halton, Province of Ontario or Government of Canada that may affect the *use* of lands, *buildings* or *structures* in the municipality.

#### **1.6 BUILDING PERMITS**

The requirements of this By-law must be met before a *Building* Permit, Certificate of Occupancy, or approval of an application for a municipal license is issued for the *use* of land or the *use*, erection, addition to or alteration of any *building* or *structure*.

#### **1.7 ENFORCEMENT**

Any person who contravenes any provision of this By-law is guilty of an offense and upon conviction is liable to the fine(s) as provided for under the Planning Act, R.S.O. 1990, c.P. 13 as amended.

**1.8 SEVERABILITY**

A decision of a court that one or more of the provisions of this By-law, or any portion of the *Zoning* maps to this By-law, are invalid in whole or in part does not affect the validity, effectiveness or enforceability of the other provisions or parts of the provisions of this By-law.

**1.9 EFFECTIVE DATE**

This By-law shall come into force the day it was passed if no appeals are received. If an appeal(s) is received, this By-law, or portions thereof, shall come into force upon the approval of the Ontario Municipal Board and in accordance with the provisions of the Planning Act as amended.

**1.10 REPEAL OF FORMER BY-LAWS**

By-law 144-2003 of the Town of Milton and all subsequent amendments relating to the HUSP Urban Area as shown on Schedule A (Zoning Map) are hereby repealed, except with respect to those lands subject to the transition clauses set out in Section 1.11 of this By-law, until such time as Section 1.11 is repealed, and any other lands identified on Schedule 'A' of this By-law as continuing to be subject to By-law 144-2003.

**1.11 SECTION NOT IN USE (38-2019)**

**1.12 DEFINITIONS**

Terms that are italicized in this By-law are defined in Section 3 of this By-law.

## Section 1: Interpretation and Administration

### 1.1 Title

This By-Law may be referred to as the "Town of Newmarket Zoning By-Law" and applies to all lands within the Town of Newmarket.

### 1.2 Administration

This Zoning By-Law shall be administered and enforced by municipal staff as appointed by the Council of the Corporation of the Town of Newmarket.

### 1.3 Conformity and Compliance with By-Law

No person shall change the *use* of any *building*, *structure* or land; erect or *use* any *building* or *structure*; or occupy any *building* or land except in accordance with the provisions of this By-Law. Where any *buildings* or land are used for more than one purpose, all provisions of this By-Law relating to each separate *use* shall be applied.

Any *use* not specifically permitted by this By-Law shall not be permitted in the Town of Newmarket. A *use* which is defined but not identified within a permitted *use* table in any *zone* or by exception is not permitted.

### 1.4 Interpretation

Nothing in this By-Law shall serve to relieve any person from any obligation to comply with the requirements of any other By-Law of the Town of Newmarket or any other regulation of the Regional Municipality of York, Province of Ontario or Government of Canada that may otherwise affect the *use* of lands, *buildings* or *structures* in the Town of Newmarket.

### 1.5 Permits

#### 1.5.1 Building Permits

The requirements of this By-Law must be met before a *building* permit is issued for the erection, addition to or alteration of any *building* or *structure*.

#### 1.5.2 Other Permits Required

The requirements of this By-Law are in addition to the regulations and standards established under separate legislation and authority. In order to *use* land or *buildings* the Town may require proof that the standards of other agencies have been met. Some of these requirements may affect the permission for *uses* and *buildings* and include but are not limited to limitations

on *use* and *building* established by the Lake Simcoe Region Conservation Authority and the Ministry of Transportation.

## 1.6 Enforcement

Any person or corporation that contravenes any provision of this By-Law is guilty of an offense and upon conviction is liable to the fine as provided for in the Planning Act, R.S.O. 1990, Chapter P.13 as amended.

## 1.7 Severability

A decision of a court that one or more of the provisions of this By-Law are invalid in whole or in part does not affect the validity, effectiveness or enforceability of the other provisions or parts of the provisions of this By-Law.

## 1.8 Effective Date

This By-Law shall come into force the day it was passed.

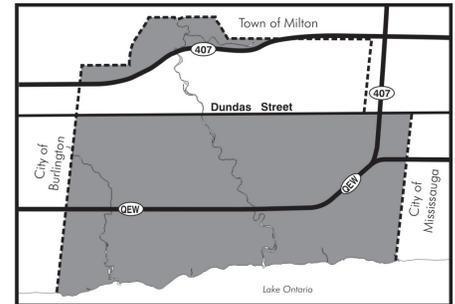
## 1.9 Repeal of Former By-Laws

- a) Town of Newmarket By-Law 1979-50 is repealed in its entirety, including all of the Sections, Schedules and amendments that apply to all lands subject to By-Law 1979-50, save except for those lands that are:
  - i) subject to By-Law 2003-121 (Oak Ridges Moraine);
  - ii) lands legally described as Part of Lot 33, Concession 2 E.Y.S., Designated as Parts 9, 10 & 12 on Plan 65R-24321, Newmarket;
  - iii) lands legally described as Part of Lot 31, Concession 3 E.Y.S., Designated as Parts 10 and 11 on 65R-30703, Newmarket;
  - iv) lands legally described as Block 1 on Plan 65M-3871;
  - v) located at 135 Pony Drive;
  - vi) located at 631 Davis Drive;
  - vii) located at 115 Beswick Drive; and,
  - viii) located on portions of 601 Newpark Boulevard.
  
- b) Town of Newmarket By-Law 1981-96 is repealed in its entirety, including all of the Sections, Schedules and amendments that apply to all lands subject to By-Law 1981-96, save and except for those lands that are:
  - i) subject to By-Law 2003-128 (Oak Ridges Moraine); and,
  - ii) located at 17360, 17380, 17390, 17410 Yonge Street, and 25, 45, 47 Millard Avenue West.
  
- c) The following Town of Newmarket By-Laws and all amendments thereto are hereby repealed:

|               |                |
|---------------|----------------|
| i) 1981-92;   | v) 1982-38;    |
| ii) 1981-114; | vi) 1982-39;   |
| iii) 1982-36; | vii) 1982-78;  |
| iv) 1982-37;  | viii) 1983-79. |

# Administration

Portions of this by-law not yet in effect are covered with a blue tone. This version consolidates all amendments and orders of the OMB up to the consolidation date shown below. Contact the Building Services or Planning Services departments for more information.



*This By-law applies to all lands south of Dundas Street and north of Highway 407.*

*Properties not subject to this By-law are either omitted from or not indicated on the Maps in Part 19.*

*The requirements of this By-law must be met before a building permit is issued for the erection, addition to, or alteration of any building or structure.*

*Without limiting its generality, Section 1.5 includes the Building Code (Ontario Regulation 350/06), and the permitting procedures of Conservation Halton (Ontario Regulation 162/06) and the Credit Valley Conservation Authority (Ontario Regulation 160/06).*

## 1.1 Application

This By-law applies to all lands in the *Town* of Oakville as shown on the Maps in Part 19 of this By-law.

## 1.2 Repeal of Former By-laws

- a) The provisions of the *Town* of Oakville Zoning By-law 1984-63, and all amendments thereto, are hereby repealed insofar as they affect the lands covered by this By-law.
- b) The provisions of the Oakville Zoning By-law 1965-136, and all amendments thereto, are hereby repealed.

## 1.3 Administration

This By-law shall be administered by the person designated as the Zoning Administrator.

## 1.4 Compliance with this By-law and Certificates of Occupancy (2017-025)

- a) No person shall use any land or erect or use any *building* or *structure* on lands subject to this By-law except for a *use* permitted, and in accordance with the regulations provided, by this By-law for the *Zone* in which the *lot* is located.
- b) No person shall change the *use* of any *lot*, *building*, or *structure*, erect or enlarge any *building* or *structure*, or sever any lands from any existing *lot* if the effect of such action is to cause the original, remaining, or new *building*, *structure*, or *lot* to be in contravention of the By-law. (2017-025)
- c) No person shall make any change in the *use* of land, or of any *building* or *structure*, without first obtaining a certificate of occupancy.
- d) Notwithstanding subsection (c) above, certificates of occupancy shall not be required for changes in residential *uses* other than the establishment of a *bed and breakfast establishment*, *short-term accommodation*, or *accessory dwelling*.

## 1.5 Compliance with Other Legislation

- a) Nothing in this By-law shall serve to relieve any person from any obligation to comply with the requirements of any other By-law of the *Town* of Oakville or any other regulation of the Regional Municipality of Halton, Province of Ontario, or Government of Canada that may otherwise affect the use of land, *buildings*, or *structures*.
- b) References to “the Zoning By-law” or “By-law 1984-63” in other *Town* By-laws or documents shall be deemed to refer to this By-law where this By-law applies.

## 1.6 Penalties

Every person who contravenes a provision of this By-law and, if the person is a corporation, every director or officer of the corporation who knowingly concurs in the contravention, is guilty of an offence and on conviction is liable to fines under the Planning Act.

# Administration

## 1.7 Severability

A decision of a court of competent jurisdiction that one or more of the provisions of this By-law or any portion of the Zoning Maps to this By-law are invalid in whole or in part does not affect the validity, effectiveness, or enforceability of the other provisions or parts of the provisions of this By-law.

## 1.8 Transition Matters

Notwithstanding Sections 1.2 and 1.4 of this By-law, a *building* permit may be issued in accordance with Section 1.8 of this By-law for the following scenarios.

For the purposes of determining zoning compliance for matters covered by Section 1.8 of this By-law, the provisions of Zoning By-law 1984-63, as amended, as it read on the effective date of this By-law shall apply.

### 1.8.1 Building Permit Applications

Nothing in this By-law shall prevent the erection of a *building* or *structure* for which an application for a *building* permit was filed on or prior to the effective date of this By-law provided the *building* permit application satisfies the following requirements:

- a) The *building* permit application complies with the provisions of Zoning By-law 1984-63, as amended, as it read on the effective date of this By-law.
- b) All information is provided to allow for a zoning review to be undertaken; and,
- c) All planning approvals have been obtained.

### 1.8.2 Recently Approved Planning Applications

- a) The requirements of this By-law do not apply on a *lot* where a minor variance to Zoning By-law 1984-63, as amended, was authorized by the Committee of Adjustment of the *Town* or the Ontario Municipal Board on or after May 10, 2011 and on or before the effective date of this By-law and a *building* permit for the applicable project has not yet been issued.
- b) The requirements of this By-law do not apply to a lot where a conditional or final Site Plan Approval has been granted by the *Town* on or after May 10, 2011 and on or before the effective date of this By-law and a *building* permit for the applicable project has not yet been issued.
- c) The requirements of this By-law do not apply to a lot where a provisional consent has been given by the Committee of Adjustment of the *Town* or the Ontario Municipal Board on or after May 10, 2011 and on or before the effective date of this By-law and a *building* permit for the applicable project has not yet been issued, the lot has not yet been registered at the Land Registry Office, or the applicable easement or agreement has not yet been registered on title.
- d) For clarity, where a minor variance to Zoning By-law 1984-63, as amended, was authorized by the Committee of Adjustment of the *Town* or the Ontario Municipal Board on or after May 10, 2011 and on or before the effective date of this By-law as a requisite condition for a Site Plan Approval, Section 1.8.2(b) shall apply to give affect to the applicable Site Plan Approval.

*In the scenarios described at left, the rules and regulations of Zoning By-law 1984-63 shall apply for when evaluating building permit applications. These clauses provide direction to Building Services that a building permit may be issued for an application received by the town fitting any of these scenarios.*

*Planning applications in process shall be reviewed under the zoning rules in force. This means for some time an application will need to conform to both Zoning By-law 1984-63, as amended, and the 2014 Zoning By-law. Applicants will need to comply with both sets of zoning regulations or seek relief or amendments to one – or possibly both – By-laws.*

*If you have questions about the applicability of these clauses to your development or building project, contact your file's planner in the Planning Services department.*

# Administration

- e) For approved site plans and minor variances where this By-law has subsequently been amended, the regulations in effect on the date of approval of the site plan or minor variance shall apply to any *building* permit applications. (2017-025)

## 1.8.3 Cessation of Section 1.8 Relief

- a) The relief provided by Section 1.8 of this By-law shall not continue beyond the issuance of the permit, approval, or agreement upon which the exemption is founded, unless otherwise provided for in this By-law. Once the permit, agreement, or approval has been granted in accordance with Section 1.8, the provisions of Zoning By-law 1984-63, as amended shall cease to be in effect.
- b) Notwithstanding subsection (a) above, the relief provided by Section 1.8 of this By-law ceases to be in effect on the date of the lapsing of the applicable approval:
  - i) For a minor variance, a maximum of two years from the date of authorization;
  - ii) For a Site Plan, a maximum of two years from the date of final approval; and,
  - iii) For a provisional consent, a maximum of three years from the date of giving.

*For Site Plans with a conditional approval only, the usual two years to obtain final approval will additionally apply to this deadline. If conditional approval is not obtained, the Site Plan loses status and the process must begin again and comply with the zoning rules in force.*

## 1.9 Clarifications and Convenience

- a) Examples, margin notes, and illustrations are for the purpose of explanation, clarification, and convenience and do not form part of this By-law.
- b) Any numbers in parentheses following any item in any Table indicates that one or more additional regulations apply to the *use, Zone, or standard* indicated. These additional regulations are listed below the applicable Table.
- c) Any geographic, biographic, referential, or identifying information and any list of Amending By-laws contained in Parts 15, 16, 17, and 18 of this By-law is provided for the purpose of clarification and convenience and does not form part of this By-law.
- d) The following character styles are provided for the purpose of convenience. Their usage or omission shall not be considered an interpretive statement by the *Town*:
  - i) Terms that are defined in Part 3 of this By-law have been *italicized*.
  - ii) Titles of Federal or Provincial legislation have been underlined.
- e) Where a defined term listed in Part 3 of this By-law is reversed anywhere in this By-law, it is done for the ease and convenience of locating and identifying the term with other like terms. Such an inversion or lack thereof shall not be considered an interpretive statement by the *Town*.
- f) Any reference to legislation or regulations or sections thereof approved by another *public authority* shall include any amendments to or successions thereof.

*Examples of where these are found include after a “✓” in a permitted use table, after a zone symbol in a table heading, after a use or building standard term, and after a standard itself.*

*As an example, “private school” and “school, private”.*

# Administration

## **1.10 Technical Interpretation** *(2017-025)*

Provided that the purpose, effect, intent, meaning and substance of this By-law are in no way affected, this By-law shall be interpreted as required for corrections to typographical or punctuation errors.

## **BY-LAW 2013-283**

A By-law to regulate the use of land, the bulk, height, location, erection and use of buildings and structures, the provision of parking spaces and other associated matters in the City of St. Catharines.

WHEREAS the City of St. Catharines Official Plan (the Garden City Plan) was adopted in July 2012;

AND WHEREAS it is deemed advisable to pass a by-law pursuant to s. 34 of the Planning act, R.S.O., 1990, c. P. 13, as amended.

The Council of the Corporation of the City of St. Catharines enacts as follows:

### **SECTION 1 ADMINISTRATION AND INTERPRETATION**

#### **1.0 Title**

This By-law may be cited as “the Zoning By-law”.

#### **1.1 Administration and Interpretation**

##### **1.1.1 Administration**

This By-law shall be administered and enforced by the City of St. Catharines (“City”) and applies to all lots within the City. Despite this By-law, all lots within the Niagara Escarpment Plan boundary are subject to the regulations made pursuant to the Niagara Escarpment Planning and Development Act.

##### **1.1.2 Conformity and Compliance with By-law**

No person shall change the use of any building, structure or lot; erect or use any building or structure; or occupy any building, structure or lot except in accordance with the provisions of this By-law. Where any building, structure or lot is used for more than one purpose, all provisions of this By-law relating to each separate use shall be applied. All applicable provisions of this By-law apply to an individual lot, unless stated otherwise.

Any use not specifically permitted by this By-law is not permitted. A use defined in Section 12 but not identified as a permitted use in any zone or by special provision is not permitted.

##### **1.1.3 Interpretation**

Nothing in this By-law shall serve to relieve any person from any obligation to comply with the requirements of any other by-law of the City, or any other regulation, requirement or standard of upper tier governments and agencies, including but not limited to the Regional Municipality of Niagara, the Province of Ontario, the Government of Canada, the Canadian National Railway, the Niagara Peninsula Conservation Authority, the Ministry of Transportation, the Ministry of Agriculture Food and Rural Affairs, the Ministry of the Environment, the Niagara Escarpment Commission, and other Provincial and Federal Ministries, departments and agencies.

Appendices 16.1.1 to 16.1.4 identify development constraints reference mapping, including Transportation – Provincial Highway Control and Railway Control; the Niagara Natural Environment Screening Layer, the Niagara Escarpment Plan boundary and Development Control Area; Airport Zoning Regulations; currently identified former landfill sites; and currently identified livestock operations where Minimum Distance Separation formulae may be applicable.

Appendix 16.1.5 sets out additional development constraints mapping, being the ‘Natural Area Extent Line’ which identifies the extent and limit of all natural heritage features and natural hazard lands currently identified by upper tier

government and agencies where, in addition to zoning shown on the schedules of this By-law, the use of any land within or adjacent to the Natural Area Extent Line may be subject to additional regulations or restrictions by the City, upper tier government or agencies.

#### **1.1.4 Definitions**

Unless otherwise defined in Section 12, the words and phrases used in this By-law have their common meaning.

#### **1.1.5 Public Utilities**

Nothing in this By-law shall prevent the use of any land for the erection of buildings or structures, or the installation of public works providing public utilities by a regulated company or government agency.

#### **1.1.6 Schedules**

The Schedules attached to this By-law form part of this By-law. Schedule A shows the Zones and zone boundaries. Schedules B and C show detailed lot specific information.

#### **1.1.7 Interpretation of Zone Boundaries**

When determining the boundary of any zone as shown on the Schedules forming part of this By-law the following shall apply:

- a) A boundary indicated as following a highway, street, lane, railway right-of-way, or utility corridor shall be construed to be the centreline of such highway, street, lane, railway right-of-way, utility corridor.
- b) A Conservation/Natural Area (G1) Zone boundary indicated as following the limits of a natural heritage feature or natural hazard lands, and which may include associated buffer areas, shall follow such limits as located through survey or other similar means. In the event of a natural change to the limits of a natural heritage feature or natural hazard lands defined more precisely through Watershed Studies, Environmental Planning Studies or Environmental Impact Studies (EIS) approved by the Niagara Peninsula Conservation Authority and other government or regulatory authority and mapping, the Conservation/Natural Area a (G1) Zone boundary shall move with the change to the limits as so defined.
- c) A boundary indicated as following lot lines or the municipal boundaries of the City of St. Catharines shall follow such lot lines or municipal boundary.
- d) Where none of the above applies, the zone boundary shall be scaled from the Schedule(s).

#### **1.1.8 Enforcement**

Any person or corporation that contravenes any provision of this By-law is guilty of an offense and upon conviction is liable to the penalties as provided for in the Planning Act. R.S.O. 1990, Chapter P. 13 as amended (the Planning Act).

#### **1.1.9 Severability**

A decision of a court that one or more of the provisions of this By-law are invalid in whole or in part does not affect the validity, effectiveness or enforceability of the other provisions or parts of the provisions of this By-law.

#### **1.1.10 Effective Date**

This By-law shall come into force the day it is passed.

### **1.1.11 Repeal of Former By-laws**

- a) City of St. Catharines By-law 88-72 (Zoning Area No. 1) is repealed in its entirety, including all of the Sections, Schedules and amendments that apply to all of the lots subject to By-law 88-72.
- b) City of St. Catharines By-law 68-121 (Zoning Area No. 2) is repealed in its entirety, including all of the Sections, Schedules and amendments that apply to all of the lots subject to By-law 68-121.
- c) City of St. Catharines By-law 66-165 (Zoning Area No. 3) is repealed in its entirety, including all of the Sections, Schedules and amendments that apply to all of the lots subject to By-law 66-165.
- d) City of St. Catharines By-law 64-270 (Zoning Area No. 4) is repealed in its entirety, including all of the Sections, Schedules and amendments that apply to all of the lots subject to By-law 64-270, save and except the Brock University lands south of Lockhart Drive, north of the toe of the Niagara Escarpment, excluding the former Captain John Decew School, as shown on Schedule A26 of this By-law.
- e) City of St. Catharines By-law 6756 (Zoning Area No. 5) is repealed in its entirety, including all of the Sections, Schedules and amendments that apply to all of the lots subject to By-law 6756.
- f) City of St. Catharines By-law 83-211 (Zoning Area No. 6) is repealed in its entirety, including all of the Sections, Schedules and amendments that apply to all of the lots subject to By-law 83-211.
- g) City of St. Catharines By-law 62-86 (Zoning Area No. 7) is repealed in its entirety, including all of the Sections, Schedules and amendments that apply to all of the lots subject to By-law 62-86.
- h) City of St. Catharines By-law 6609 (Zoning Area No. 8) is repealed in its entirety, including all of the Sections, Schedules and amendments that apply to all of the lots subject to By-law 6609.
- i) City of St. Catharines By-law 64-207 (Zoning Area No. 9) is repealed in its entirety, including all of the Sections, Schedules and amendments that apply to all of the lots subject to By-law 64-207.
- j) City of St. Catharines By-law 84-119 (Zoning Area No. 10) is repealed in its entirety, including all of the Sections, Schedules and amendments that apply to all of the lots subject to By-law 84-119.
- k) City of St. Catharines By-law 71-224 (Zoning Area No. 11) is repealed in its entirety, including all of the Sections, Schedules and amendments that apply to all of the lots subject to By-law 71-224.

### **1.1.12 Transition for By-law 2017-146 (Residential Infill and Intensification Development Review Zoning By-law Amendment)**

- A) The provisions of By-law 2017-146, being a by-law to amend the Comprehensive Zoning By-law 2013-283, shall not apply to prevent the issuance of a building permit for a project for which a complete application for a:
  - i) Approval of draft plan of subdivision;
  - ii) Approval of draft plan of condominium;
  - iii) Subdivision Agreement;
  - iv) Condominium Agreement;
  - v) Site Plan approval;

- vi) Development Agreement;
- vii) Removal of part lot control;
- viii) Committee of Adjustment approval;
- ix) Building Permit

was received after December 16, 2013 and on or before June 9, 2017, or in the event of an appeal to By-law 2017-146, received prior to the date when all appeals to By-law 2017-146 have been withdrawn or finally disposed of (**\* effective date is June 11, 2018**), and any subsequent complete applications related to the project received thereafter, and: for which the building permit is issued on or prior to May 7, 2020.

- B) Complete Application” means an application deemed to be complete in accordance with the Planning Act.
- C) Where a project qualifies under subsection A) above, a building permit for that project may be issued, or the Committee of Adjustment approval, the Site Plan approval, the removal of Part Lot Control, the Subdivision Agreement, the Condominium Agreement, the Development Agreement, the approval of draft plan of subdivision, or approval of draft plan of condominium may be granted if the project in question complies with the provisions of Zoning By-law 2013-283 as it read on May 7, 2017, and provided that no significant revisions to the project are submitted after this date.
- D) The exemption provided by this Transition Clause shall not continue beyond the issuance of the permit upon which the exemption is founded; and, once the permit, agreement or approval under subsections A) has been granted, the provisions of Zoning By-law 2013-283, as amended by By-law 2017-146, or any subsequent amendments thereto, shall apply to the lands in question.

**\* LPAT decision on appeal of By-law 2017-146 was made on June 11, 2018**

# 1.0 ADMINISTRATION

## 1.1 Title

This By-law may be cited in-full as the “Comprehensive Zoning By-law”.

## 1.2 Application

1. This Comprehensive Zoning By-law shall apply to the entire area within the municipal boundaries of the Corporation of the City of Vaughan as shown on Schedule A of this By-law.
2. The provisions of the City of Vaughan Zoning By-law 1-88, as amended, and all amendments thereto including schedules and maps, are hereby repealed on the date of the passing of this By-law.
3. References to the “Zoning By-law” or “1-88” within another City by-law shall be deemed to refer to this By-law.

## 1.3 Compliance

1. No person shall use any land or erect any building or structure on lands subject to this By-law except for a use permitted, and in accordance with the regulations provided by this By-law for the zone in which the lot is located.
2. No person shall change the use of any lot, building, or structure, or erect or enlarge any building or structure, or sever any lands from any existing lot, if the effect of such action is to cause the original, remaining, or new building, structure, or lot to be in contravention of the By-law.
3. Nothing in this By-law shall serve to relieve any person from any obligation to comply with the requirements of any other By-law of the City of Vaughan or any other applicable regulation of the Regional Municipality of York, Province of Ontario, or Government of Canada authorities that may otherwise affect the use of any land, building or structure.

## 1.4 Severability

A decision of a court of competent jurisdiction that one or more of the provisions of this By-law or any portion of the schedules to this By-law are invalid in whole or in part does not affect the validity, applicability, or enforceability of all other provisions of this By-law.

## **1.5 Transition**

### **1.5.1 Building Permit Applications**

1. Nothing in this By-law shall prevent the erection of a building or structure for which an application for a building permit was filed on or prior to the effective date of this By-law, provided that the building permit application satisfies the following requirements:
  - a. The building permit application complies with the provisions of Zoning By-law 1-88, as amended, as it read on the effective date of this By-law;
  - b. All information is provided to allow for a zoning review to be undertaken; and
  - c. All required planning approvals have been obtained.

### **1.5.2 Planning Act Approvals**

1. The requirements of this By-law do not apply on a lot where a minor variance to Zoning By-law 1-88, as amended, was authorized by the Committee of Adjustment of the City or the Ontario Municipal Board or Local Planning Appeal Tribunal on or after January 1, 2015 and on or before the effective date of this By-law and a building permit has not yet been issued.
2. The requirements of this By-law do not apply to a lot where a provisional consent has been given by the Committee of Adjustment of the City or the Ontario Municipal Board or Local Planning Appeal Tribunal on or after January 1, 2015 and on or before the effective date of this By-law and a building permit for the applicable project has not yet been issued, the lot has not yet been registered at the Land Registry Office, or the applicable easement or agreement has not yet been registered on title.
3. The requirements of this By-law do not apply to a lot where a conditional or final Site Plan Approval has been granted by the City or the Ontario Municipal Board or Local Planning Appeal Tribunal on or after January 1, 2015 and on or before the effective date of this By-law and a building permit has not yet been issued.

### **1.5.3 Lapse of Transition Provisions**

1. Once a permit or approval referred to under Sections 1.5.1 and 1.5.2 has been granted, all provisions of this By-law shall apply to the subject lands.
2. The provisions of Section 1.5 shall be repealed five years from the date of passing of this By-law. This provision shall not require an amendment to this By-law to take effect.

**1.6 Penalties**

Any person or corporation that contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to the fine(s) as provided in the *Planning Act*.

**1.7 Legal Non-Conformity**

Nothing in this By-law applies to prevent the use of any land, building, or structure for any purpose prohibited by this By-law if such land, building, or structure was lawfully used for such purpose on the day of the passing of the By-law, provided it continues to be used for that purpose.

**1.8 Legal Non-Compliance**

1. A lot in existence prior to the effective date of this By-law that does not meet the minimum lot area or lot frontage requirements of the applicable zone is permitted to be used and buildings and structures thereon be erected, enlarged, repaired or renovated, provided the use conforms with this By-law and the buildings and structures comply with all other provisions of this By-law.
2. Where a lot, building, structure or required parking space is deemed to be deficient of any requirement of this By-law, and that deficiency is expressly the result of acquisition or expropriation of land by a public authority, the lot, building, structure or required parking space shall be deemed to comply with the requirements of this By-law.

**1.9 Administration**

This By-law shall be interpreted and administered in a way that will ensure the lawful implementation of its provisions and intent as follows.

**1.9.1 Wording**

1. Unless otherwise defined, the words and phrases used in this By-law shall have their normal and ordinary meaning.
2. The word ‘must’ and ‘shall’ are mandatory.
3. The phrase ‘used for’ includes ‘arranged for’, ‘intended for’, ‘maintained for’, ‘designated for’, or ‘occupied for’.
4. Words used in the singular include the plural and words used in the plural include the singular.

5. Words used in the present tense include the future tense and words used in the future tense include the present tense.

### **1.9.2 Abbreviations**

For the purpose of this By-law, the following abbreviations and terms shall be interpreted as follows:

1. 'm' means metres;
2. 'ha' means hectares;
3. 'm<sup>2</sup>' means square metres;
4. 'max' means maximum;
5. 'min' means minimum;
6. '%' means percent;
7. 'GFA' means gross floor area; and
8. 'FSI' means floor space index.

### **1.9.3 Character Styles**

Character styles are provided for convenience purposes only. The usage or omission of the following shall not be considered to change the intent or meaning of the By-law or any part thereof:

1. The terms that are defined in Part 3 of this By-law have been underlined.
2. Titles of Federal or Provincial legislation are italicized.

### **1.9.4 Site-Specific Zoning Amendments**

A hyphenated suffix consisting of numbers as shown on Schedule A shall be considered a site-specific zone exception in accordance with the following:

1. The use permissions, provisions, or any combination thereof, established through a site-specific zone exception shall take precedence over the permitted uses or provisions of the base zone or any part of this By-law, as applicable.
2. For clarity, all other use permissions and provisions not modified by a site-specific zone exception shall continue to apply to all buildings, structures, and use of the subject lands.

## **1.10 Technical and Editorial Revisions**

Provided that the purpose, effect, intent, meaning and permissions of this By-law are in no way changed or altered, the following technical revisions to this By-law are permitted without amendment:

1. Changes to the numbering, format, style, headings, arrangement and order of pages, text, tables, schedules, maps or any other element that forms part of this By-law.
2. Additions to and revisions of technical information on the schedules, including but not limited to: topographic information, road labels, notes, legends, colours, shading, title blocks or zone lines abutting new or deleted roads. For clarity, this provision shall not apply to changes that would affect the zoning of lands.
3. Changes to illustrations and diagrams which do not form an operative part of the By-law.
4. Changes to any reference to legislation or regulations or sections thereof approved by another public authority and shall include any amendments to or successions there

## SECTION 1 INTERPRETATION

### 1.1 Title of By-law

By-law 2017-117 shall be cited as the “City of Welland Zoning By-law” and herein may be referenced as “this By-law”.

### 1.2 Administration

This By-law shall be administered by the municipal staff as appointed by the Council of the City of Welland.

### 1.3 Scope of By-law

No lands shall be used and no buildings or structures shall be erected, structurally altered or enlarged, or used, within the City of Welland except in conformity with the provisions of this By-law. The Schedules form part of this By-law and are to be read in conjunction with the provisions of this By-law.

### 1.4 Area for Which By-law Applies

The provisions of this By-law shall apply throughout the City to the extent of all lands contained within the limits of the Zone boundaries, as shown on the Zone Maps forming Schedule “A” of this By-law with exception to properties known as 418, 424, and 430 Aqueduct Street; 650, 656, 664, 670, 678, 684, 694, and 698 Niagara; and 69, 102, 165 and 158 Primeway Drive; s/e corner of First Street and Plymouth, 105 First Street, 114, 142 Second Street be excluded from this By-law.

### 1.5 Level of Accuracy

All calculations of the regulations in this By-law shall be to one decimal place, and in no case, shall there be rounding to such decimal place. In the event of any conflict between the Zone Provisions provided in this By-law, the more restrictive performance standard(s) shall apply.

### 1.6 Abbreviations

Abbreviations used throughout this By-law are as follows:

|                |                 |
|----------------|-----------------|
| M              | metre(s)        |
| Cm             | centimetre(s)   |
| m <sup>2</sup> | square metre(s) |
| Ha             | hectares        |
| Max            | maximum         |

|        |                  |
|--------|------------------|
| Min    | minimum          |
| %      | percent          |
| G.F.A. | Gross Floor Area |

### 1.7 Measurements

All measurements of length, area or height used to determine compliance with the regulations of this By-law shall be subject to the normal mathematical rules of rounding numbers and the level of accuracy expressed in the regulations of this By-law, as follows:

- a) For regulations expressed as a whole number, measurements less than 0.5 shall be rounded downward to the nearest whole number, and measurements greater than or equal to 0.5 shall be rounded upward to the nearest whole number.
- b) For regulations expressed as a ratio or percentage, measurement shall not be subject to rounding.

### 1.8 Legal Non-Conforming Buildings and Uses

No person shall use or permit the use of any land, building or structure or part thereof, or erect, repair, or alter or permit the erection, repairing or altering of any building or structure which is not in conformity with the provisions of this By-law, except as follows:

- a) The erection or use for a purpose prohibited by this By-law of any building for which a permit was required by and issued under the *Building Code Act*, as amended, prior to the effective date of this By-law, so long as the building when erected was used and continues to be used for the purpose for which it was erected and provided the permit has not been revoked under the *Building Code Act*, as amended.
- b) The use of land for a purpose prohibited by this By-law provided the use existed prior to the effective date of this By-law, so long as the use has continued on the property.
- c) The repair or restoration of any existing building, or part thereof, to a safe condition provided that such repair or restoration will not increase the height, area or volume, or lot coverage of such building and that the building continues to be used for the same purpose and in the same manner as it was used on the effective date of this By-law.

### 1.9 Conformity and Compliance Requirements

- a) The standards, regulations and requirements contained in this By-law shall apply to all lands and properties located within the corporate limits of

the City of Welland as they now exist, or as they may hereafter be enlarged or diminished.

- b) No land shall be used and no building or structure shall be erected, altered or used except in conformity with the permitted uses of this By-law and in compliance with the regulations of this By-law.
- c) No municipal permit, certificate or license shall be issued for the use of land or for the erection, alteration or use of any building or structure that is not in conformity and compliance with this By-law.
- d) No person, other than a public authority, shall create or alter the boundaries of any lot by conveyance or otherwise such that the lot does not comply with the requirements of this By-law.
- e) For any lot that is not in compliance with the requirements of this By-law on the effective date, no person, other than a public authority, shall alter the boundaries of the lot in a manner that would increase the extent of the non-compliance. Where the acquisition of land by a public authority alters the boundaries or area of a lot in a manner that results in non-compliance with any regulation of this By-law, this By-law shall not apply to prevent the continued use of the lot and of any buildings and structures in existence on the lot on the date of the acquisition, provided that no person, other than a public authority, shall increase the extent of the non-compliance on or after the date of the acquisition and further provided that the use conforms with the permitted uses of this By-law or is permitted to continue as a lawfully existing non-conforming use in accordance with this By-law.
- f) To the extent of any conflict among the provisions of this By-law, the more restrictive provisions shall apply.

#### **1.10 Compliance with other Legislation or Regulations**

- a) Nothing in this By-law shall exempt any person from the requirement to comply with other By-laws of the City and regulations of the Regional Municipality of Niagara, Niagara Peninsula Conservation Authority, Province of Ontario, and Government of Canada, that may affect the use of land or the erection, use or alteration of buildings or structures.
- b) To the extent of any conflict or inconsistency between this By-law and any other By-law of the City, the more restrictive By-law shall prevail.
- c) Where a permit has been issued by the Niagara Peninsula Conservation Authority, the provisions or conditions set out in the permit shall supersede the provision of this By-law where more restrictive.

- d) References to “the Zoning By-law”, or “By-law 2667”, or “By-law 1538 (Crowland)” in other City By-laws or documents shall be deemed to refer to this By-law where this By-law applies.

### **1.11 Definitions**

For convenience, terms that are *italicized* are defined in Section 4 of this By-law. This does not apply to the title of Sections and Subsections.

### **1.12 Discretionary and Mandatory Wording**

The words “must” and “shall” are mandatory. The word “may” is not mandatory. “May” is used to indicate where certain circumstances may or may not be applicable.

### **1.13 Examples and Illustrations**

Examples and illustrations, where provided, are for clarification and convenience and do not form part of this By-law.

### **1.14 Legislative References**

Any reference to legislation or regulations or sections thereof approved by another public authority shall include any amendments or successors thereto.

### **1.15 Technical Revisions**

The following revisions may be made to this By-law by the City of Welland at any time without the need for an Amendment:

- a) Corrections to grammar, punctuation or typographical errors or formatting revisions that do not change the intent of this provisions;
- b) Additions or revisions to technical information on maps or schedules that do not affect the Zoning of land including, but not limited to, matters such as updating and correcting base map information (roads, assessment parcels and labels), keys, legends or title blocks; and
- c) Changes to appendices, footnotes, headings, indices, marginal notes, tables of contents, illustrations, historical or reference information, page numbering footers and headers, which do not form a part of this By-law and are editorially inserted for convenience of reference only.

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## SECTION 2 ADMINISTRATION

### 2.1 Validity

Should any Section, clause or provision of this By-law, including any part of the Zones as shown in Schedule “A”, be held by a court of competent jurisdiction to be invalid, the validity of the remainder of the By-law shall not be affected.

### 2.2 Effective Date

This By-law shall be deemed to have come into effect on the date of the passing thereof by the Council of the City of Welland.

### 2.3 Technical Revisions to the Zoning By-law

Revisions may be made to this By-law without the need for a Zoning By-law Amendment in the following cases:

- a) Correction of grammar or typographical errors or revisions to format in a manner that does not change the intent of a provision.
- b) Adding or revising technical information on maps or schedules that does not affect the Zoning of lands including, but not limited to, matters such as updated and correcting infrastructure information, keys, legends or title blocks.
- c) Changes to appendices, headings, indices, marginal notes, table of contents, illustrations, historical or reference information, page numbering, footers and headers, which do not form a part of this By-law and are editorially inserted for convenience of reference only.
- d) Minor adjustments to the boundary of an Environmental Protection Zone on a property may be made, without amendment to the Zoning By-law, where the General Manager or his/her designate, for the City of Welland is satisfied that the mapping of the Environmental Protection Zone on a Schedule is in obvious error.

### 2.4 Enforcement

Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to the fine(s) as provided for under the *Planning Act*, as amended.

## 2.5 Removal and Reinstatement

- a) Where an owner or person is in contravention of any provision of this By-law, the City, or a Municipal Law Enforcement Officer, in addition to any other action, may send notice to the owner or person, requiring the property to be made to conform with this By-law. In the event that a notice is sent and the property is not reinstated to conform with the provisions of this By-law within the time period set out in the notice, the City, its employees, agent or contractor may enter upon the land and remove such things or carry out the work or actions required to make the property comply with this By-law, and may recover the costs in accordance with Section 446 of the *Municipal Act*, as amended.
- b) Any notice given under this By-law may be given by ordinary mail or hand delivery to the address of the subject property, or to the address of the owner or person according to the last revised Assessment Roll off the property which does not comply with this By-law, or may be posted on the subject property and such service shall be deemed good and sufficient service.
- c) The City, its employees, agent or contractor may, without notice, perform any work necessary to comply with this By-law where there is an immediate danger or threat to public health or safety, and recover costs as in Subsection 2.4 b).
- d) Anything removed by this Section may be deposited elsewhere on the property on which it is located, or may be stored by the City, its employees, agent or contractor. Where a thing has been removed, and stored, the owner or person may reclaim such thing upon payment to the City any costs incurred by the City, its agent or contractor in the removal of such thing. Where the thing has not been reclaimed within thirty days of its removal, such thing may be forthwith destroyed or otherwise disposed of by the City, its employees, agent or contractor.

## 2.6 Violation of the By-law

Where land is proposed to be used, or a building or structure is proposed to be erected or used in violation of this By-law,

- a) No permit for the use of the land or for the erection or use of the building or structure shall be issued;
- b) No certificate of occupancy or permit for change in use shall be issued;
- c) No municipal license shall be issued; and
- d) The above does not apply with respect to a legal non-conforming use.

## 2.7 Penalties

- a) The contravention of any requirement of this By-law may be restrained by action of any ratepayer of the City pursuant to the provisions of the *Municipal Act*, as amended.
- b) Every person who contravenes a provision of this By-law and, if the person is a corporation, every director or officer of the corporation who knowingly concurs in the contravention, is guilty of an offence and on conviction is liable to fines under the *Planning Act*, as amended.

## 2.8 Repeal of Former By-laws

All the provisions of By-law Number 2667 and By-law Number 1538 (Crowland), as amended, and all subsequent amendments to any of said By-laws referenced hereto, insofar as they affect those lands within the limits of the Zone boundaries so included in Schedule "A" of this By-law, shall be and the same are hereby repealed.

## 2.9 Transition Matters

For the purposes of determining Zoning compliance for matters covered by Section 2.6 of this By-law, the provisions of Zoning By-law Numbers 2667 or 1538 (Crowland), as amended, as they read on the effective date of this By-law shall apply.

- a) This By-law does not apply to prevent the issuance of a building permit for a project for which a Complete Application was received on or prior to the day before this By-law was passed by Council for a:
  - i) Building Permit;
  - ii) Committee of Adjustment Approval;
  - iii) Site Plan Control Approval;
  - iv) Part Lot Control Exemption Approval;
  - v) Approval of Draft Plan of Subdivision or Draft Plan of Condominium; or
  - vi) Site Specific Zoning By-law Amendment.
- b) For the purposes of Subsection 2.8 a), "Complete Application" means an application which could have been approved or granted on the day before this By-law was passed by Council, had it been processed or disposed of on that day as determined in accordance with the provisions of the *Planning Act*, as amended, R.S.O. 1990, Chapter P. 13, and the Regulations, thereunder.

- c) Where a project qualifies under Section 1.8 - Legal Non-conforming Uses the building permit for that project may be issued; or the Committee of Adjustment Approval, the Site Plan Control Approval, the Part Lot Control Exemption Approval, and the Draft Plan of Subdivision or Draft Plan of Condominium Approval may be granted, if the project in question complies with the provisions of Zoning By-law Numbers 2667 or 1538 (Crowland), as amended of the City of Welland as they read on the day before this By-law was passed by Council.
- d) Nothing in this By-law applies so as to continue the exemption provided by this Subsection beyond the issuance of the permit or other approval under Subsection 2.8 a), upon which the exemption is founded; and in no case, does the exemption mentioned in Subsection 2.8 c), continue beyond the repeal of this Subsection.
- e) Once the permit or approval under Subsection 2.8 a), has been granted, the provisions of this By-law apply in all other respects to the land in question.
- f) Section 2.8 is repealed in its entirety three years from the date of enactment of this By-law.

