



Planning and Development Services

Prepared for	Council-in-Committee	Report No.	PDS-49-2023
Agenda Date	June 26, 2023	File No.	350309-0568

Subject

**AMENDMENT TO COMPREHENSIVE ZONING BY-LAW NO. 129-90
BILL 23 HOUSEKEEPING AMENDMENT INITIATION REPORT**

Recommendations

THAT Council directs staff to initiate house keeping amendments to the Town's Comprehensive Zoning By-law No.129-90 in accordance with the *Planning Act*, as outlined in Report No. PDS-49-2023.

Relation to Council's 2018-2022 Corporate Strategic Plan

Priority: Managed Growth through Responsibility, Stewardship and Preservation

List of Stakeholders

Residents & Property Owners in the Town of Fort Erie

Prepared by:	Submitted by:	Approved by:
<i>Original Signed</i>	<i>Original Signed</i>	<i>Original Signed</i>
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Purpose of Report

The purpose of this report is to obtain Council authorization to proceed with a major housekeeping amendment to the Town of Fort Erie Comprehensive Zoning By-law No. 129-90, as amended. The housekeeping amendment will update the Zoning By-law to reflect recent changes to the *Planning Act* resulting from the Province of Ontario approving Bill 23, the *More Homes Built Faster Act*, 2022 (herein “Bill 23”). Bill 23 received Royal Assent on November 28, 2022. Notable impacts on the Town’s Zoning By-law resulting from Bill 23 include:

- Up to three residential dwelling units are permitted as-of-right on any urban residential parcel. This can be in the form of three residential dwelling units in one dwelling, or two residential dwelling units in one dwelling and a third residential dwelling unit in a detached accessory structure on the same parcel.
- The three as-of-right residential dwelling units may be added to any parcel with a single detached dwelling, semi-detached dwelling or townhouse dwelling (referred to as “rowhouse” in the *Planning Act* policies) provided one parking space can be provided per dwelling unit.
- Any Official Plan or Zoning By-law provisions that prohibit the new as-of-right residential dwelling unit policies in the *Planning Act* are deemed to be of no force and effect (null and void).
- Any Zoning By-law regulations that limit the minimum floor area of the new as-of-right residential dwelling unit policies in the *Planning Act* are deemed to be of no force and effect (null and void).

Planning staff also propose to include several minor revisions or additions to Section 5 - Definitions, Section 6 - General Provisions, Section 14 - Residential Multiple 1 (RM1) Zone and Section 27 - Industrial (IN) Zone following initial consultation with Building Division and By-law Enforcement staff. The proposed housekeeping amendment will also contain minor corrections, updated references and other miscellaneous improvements to the Zoning By-law. The proposed changes are outlined in the Analysis section of this report.

Background

Staff monitors the Zoning By-law for opportunities to improve the definitions, regulations and provisions on an ongoing basis. Since 2003, staff have been bringing housekeeping amendments to Council on a regular basis (annually) to keep the Zoning By-law current and relevant. It is intended to continue this practice in the future.

Analysis

The following table summarizes the changes to the text of the Comprehensive Zoning By-law No. 129-90 being considered through this housekeeping amendment:

Zoning By-law Section	Topic	Commentary
5 - Definitions	5.17 Attached	Review and revise the definition in consultation with Building Division.
5 - Definitions	5.102 Definitions for Dwelling Types	Review the various definitions for dwellings in the Zoning By-law and revise or alter them to align with the new terminology and policies in the <i>Planning Act</i> related to the new regulations for as-of-right residential dwelling units.
5 - Definitions	5.129, 5.130, 5.131 & 5.132 Various definitions for Floor Area	Review various Floor Area definitions and see if any revisions are required for clarity purposes.
5 - Definitions	5.179 Landscaped Area	Review and revise the definition to clarify what is considered to count towards landscaped area on a parcel.
5 - Definitions	5.196 Lot Coverage	Review and revise the definition to clarify what is considered to count towards lot coverage on a parcel. Remove uncovered steps from lot coverage.
5 - Definitions	5.310 Setback	Add some text to clarify that setbacks also apply to parcels with split zoning in addition to property lines, or reference Subsection 6.15 in Section 6 - General Provisions.
5 - Definitions	5.351 U-Brew-Your-Own Establishment	Modify definition to clarify that this is considered to be a commercial use and may include a retail component.

Zoning By-law Section	Topic	Commentary
6 - General Provisions	New - Permit Additional Residential Dwelling Units in Select Non-Residential Zones	Add provision to permit the additional residential dwelling units permitted under the <i>Planning Act</i> in any non-residential zone that permits stand-alone single detached, semi-detached or townhouses dwellings in Permitted Uses or via a Zoning Exception.
	6.1 Accessory Uses	Remove general prohibition of human habitation in accessory structures. Permit use of an accessory structure for one residential dwelling unit provided there are not more than two residential dwelling units in the main dwelling on the same parcel.
	6.3 Dwelling Units (b) Location Above a Private Garage	Remove the provision prohibiting a dwelling unit located in its entirety above a private garage.
	6.13 Lot Requirements (a) Dwellings	Modify provision to reflect that one residential dwelling unit may be permitted in a detached accessory building on the same lot as a lawful single detached, semi-detached or townhouse dwelling.
	6.20 Parking Area Regulations (A)	Review if the parking requirement for block townhouse dwellings should be changed from 1.5 parking spaces per dwelling unit to 1 parking space per dwelling unit to align with the changes to the <i>Planning Act</i> .

Zoning By-law Section	Topic	Commentary
	6.20 Parking Area Regulations (A) (ii)	Update this provision to include the newer Core Mixed Use Zones that similarly exempt parking requirements for commercial uses.
	6.20 Parking Area Regulations (H) Other Parking Regulations	Add a provision permitting parking spaces in tandem on a parcel with a single detached, semi-detached or townhouse dwelling.
	6.20 Parking Area Regulations (H) Other Parking Regulations (ii)	Consider modifying the provision to remove the “one tonne maximum capacity” limit for commercial motor vehicles and change it to a weight-based limit of 3,600 kg to align with the Zoning By-law definition of a “Commercial Motor Vehicle”.
	6.20 Parking Area Regulations (I) Parking Area Location on Lot	Remove 0.9 m setback of a parking area to a street line. It is not clear what the intent of this provision is and it conflicts with the minimum front yard setback regulations to garages found in many Residential zones.
	6.21 Landscaping and Planting Strips (g)	Consider adding a minimum percentage requirement for landscaped area in the rear yard of a Residential Zone in an effort to prevent rear yards from being completely covered with impermeable hardscape or paved surfaces.
	6.24 Public Service	Modify text to add “Service” after “Public” in the first sentence for clarity purposes.

Zoning By-law Section	Topic	Commentary
	6.38 Travel Trailers, Pick Up Campers, Tent Trailers, Permanently Mounted Campers and Tents	Modify text to prohibit human habitation in vehicles.
	6.39 Storage of Recreational Vehicles	Modify the regulations to more strictly regulate where RVs can be parked on private property. One ongoing issue are RVs being parked in the front yard completely obscuring the main dwelling from the road. Consider adding a diagram similar to the fence by-law to illustrate where RVs can be parked.
	6.40 Covered or Uncovered Porches, Balconies, Decks and Patios	<p>Consider permitting at-grade (0 m height) uncovered patios to project into required interior side yards with a 0.00 m setback from the interior side lot line provided drainage is not adversely impacted.</p> <p>Consider adding provision to prevent encroachment into required swales.</p> <p>Consider differentiating / clarifying between at-grade patios and sidewalks.</p>
	6.41 Yard Encroachments Permitted (a) Ornamental Structures	Add Windows Wells as an ornamental structure that may project 0.50 m into any required yard but shall not be closer than 0.50 m to any lot line.
	6.41 Yard Encroachments Permitted (d) Steps and Barrier Free Ramp Structures	Clarify steps associated with basement walkouts with concrete foundations, and required landings/platforms.

Zoning By-law Section	Topic	Commentary
	6.43 Accessory Apartments	Revamp this section to regulate the residential dwelling units permitted as-of-right under the new <i>Planning Act</i> policies. Establish regulations for a residential dwelling unit added to an existing detached accessory building versus a new detached accessory building. Develop new regulations for height and lot coverage for accessory structures housing residential dwelling units.
10 – Residential 1 (R1) Zone	10.2, 11.2, 12.2, 12B.2, 16.2 Permitted Uses	Revise the permitted uses to permit up to three residential dwelling units in a single detached dwelling. Revise the permitted uses to permit up to two residential dwelling units in a single detached dwelling with one residential dwelling unit in a detached accessory building on the same parcel.
11 - Residential 2 (R2) Zone		
12 - Residential 2A (R2A) Zone		
12B - Residential 2B (R2B) Zone		
16 - Waterfront Residential (WR) Zone		

Zoning By-law Section	Topic	Commentary
13 - Residential 3 (R3) Zone	13.2 Permitted Uses	<p>Revise the permitted uses to permit up to three residential dwelling units in a single detached dwelling and a semi-detached dwelling.</p> <p>Revise the permitted uses to permit up to two residential dwelling units in a single detached dwelling and a semi-detached dwelling with one residential dwelling unit in a detached accessory building on the same parcel.</p>
	14.2 Permitted Uses	<p>Revise the permitted uses to permit up to three residential dwelling units in a single detached dwelling, a semi-detached dwelling and a townhouse dwelling.</p> <p>Revise the permitted uses to permit up to two residential dwelling units in a single detached dwelling, a semi-detached dwelling and a townhouse dwelling with one residential dwelling unit in a detached accessory building on the same parcel.</p>
14 - Residential Multiple 1 (RM1) Zone	14.3 Planting Strips	Clarify when the 4.50 m planting strip is required where it abuts a street. This currently conflicts with the minimum front yard and exterior side yard setback provisions for street townhouses and appears to be redundant.
	14.7 Zone Regulations for Triplexes and Fourplexes	Delete the minimum floor area for dwellings requirement of 65 sq m.

Zoning By-law Section	Topic	Commentary
17 - Neighbourhood Development (ND) Zone	17.2 Permitted Uses, 17.3 Regulations	<p>Revise the permitted uses to permit up to three residential dwelling units in an existing single detached dwelling, subject to septic system review and approval by Niagara Region if the parcel is not serviced with sanitary sewers.</p> <p>Revise the permitted uses to permit up to two residential dwelling units in an existing single detached dwelling with one residential dwelling unit in a detached accessory building on the same parcel, subject to septic system review and approval by Niagara Region if the parcel is not serviced with sanitary sewers.</p>
27 - Industrial (IN) Zone	27.5 Building Façade Regulations for QEW Exposure	Review and revise the regulations for building materials for facades with exposure to the QEW for clarity.
27 - Industrial (IN) Zone	New - Permitted Encroachments of Accessory Buildings and Structures	Consider adding some regulations that permit encroachments into required yards for accessory structures and buildings such as gatehouses and water meter buildings for industrial uses.
Various	Numbering, Cross-references and Typos	Various updates will be made to section numbering, incorrect cross-references, typos and grammatical errors as required.

Financial/Staffing and Accessibility (AODA) Implications

The proposed amendments are housekeeping in nature, and all related work will be completed internally by Planning Department staff.

No impediments to the AODA legislation are expected to be developed through the amendments proposed.

Policies Affecting Proposal

Policies affecting the recommendation are contained in the Town's Official Plan and Zoning By-law, as well as other applicable Provincial Regulations.

Notification of the proposed application to amend the Zoning By-law will be provided in accordance with requirements of the Planning Act by placing an advertisement in the Fort Erie Times Newspaper as well as in accordance with Council's May 6, 2013 direction for providing notice of housekeeping amendments.

Comments from Relevant Departments/Community and Corporate Partners

All required agencies will be circulated in the processing of this amendment. Comments from the public will be solicited through the notice in the Times newspaper and on the Town website.

Communicating Results

No additional communications are required at this time

Alternatives

NA.

Conclusion

Staff requests that Council authorize the initiation of an amendment (housekeeping changes) to Zoning By-law 129-90 in accordance with the *Planning Act* of Ontario.

Attachments

None.