

Staff Report

Report To: City Council
Report From: Amy Cann, Manager of Planning and Heritage
Meeting Date: June 27, 2022
Report Code: CS-22-089
Subject: Recommendation Report – Housekeeping Amendment to Zoning By-law 2010-078, as amended (ZBA No. 30)

Recommendations:

THAT in consideration of Staff Report CS-22-089 respecting Zoning By-law Amendment No. 30 being the fourth housekeeping amendment to the City's Zoning By-law 2010-078, City Council:

1. Finds that the proposed amendment is consistent with the Provincial Policy Statement and the goals, objectives and intent of the City's Official Plan and has considered the staff report and recommendations and the written and oral submissions made; and
2. Directs staff to bring forward a by-law to adopt Amendment No. 30 to the City's Zoning By-law No. 2010-078 and give notice in accordance with Section 34 of the Planning Act.

Highlights:

- Zoning By-law Amendment No. 30 is a City-initiated housekeeping amendment and includes several changes to eight (8) sections of the by-law to clarify interpretation, improve readability, and provide clarification.
- The draft amendments are attached as Schedule 'A'.
- The subject amendment is anticipated to be the last housekeeping amendment before Staff undertake a Comprehensive Zoning By-law Review to implement the City's 2021 Official Plan.

- In accordance with the prescribed process in the Planning Act, the City-initiated amendment was circulated, and a public meeting was held on May 30, 2022.
- Staff find that the proposed changes are consistent with the Provincial Policy Statement, in conformity with the County of Grey Official Plan and the City of Owen Sound Official Plan and conforms with the general intent and purpose of the City's Zoning By-law. The proposal represents good planning.

Strategic Plan Alignment:

Legislated review process.

Previous Report/Authority:

[CS-22-045](#) – Technical Report to the Community Services Committee

[CS-22-073](#) – Report to the Accessibility Advisory Committee respecting Zoning By-law Amendment No. 30 and Matters of Accessibility

[Zoning By-law 2010-078](#)

[Technical Report CS-22-045](#) – Housekeeping Amendment to Zoning By-law 2010-078, as amended (ZBA 30)

[Public Meeting Minutes, May 30, 2022](#)

Background & Proposal:

The [Zoning By-law](#) is one of several tools provided to municipalities under the Planning Act for implementing the policies of the Official Plan. A Zoning By-law controls the use of land within a community and states specifically how land may be used, where buildings and other structures can be located, the types of buildings permitted and how they may be used.

Housekeeping changes or amendments are intended to keep a zoning by-law relevant with other policies or legislation, user-friendly, accurate, clear, and easy to apply. The last housekeeping amendment to the City's Zoning By-law (2010-078, as amended) was undertaken by Staff in 2012.

The proposed housekeeping amendment is necessitated by several factors, including the time that has elapsed since the last housekeeping amendment,

matters revealed through day-to-day usage and application of the document, and changes in policy and legislation.

The purpose of this report is to present the changes to the City's Zoning By-law proposed by Staff through Zoning By-law Amendment No. 30, being the fourth City-initiated housekeeping amendment, and identify the next steps in the process.

The proposed housekeeping amendment is an interim measure until Staff can initiate a Comprehensive Zoning By-law Review. A comprehensive review is necessary and required by the Planning Act following the adoption of the City's new Official Plan, which came into force on February 15, 2022. A housekeeping amendment is different than a comprehensive zoning by-law review in that housekeeping amendments are intended to address minor changes and updates to the current by-law. A comprehensive review is larger in scope and scale and typically includes the review of the Zoning By-law in its entirety.

The Proposal

Zoning By-law Amendment No. 30 is a proposed City-initiated housekeeping amendment and considers changes to eight (8) sections of the by-law to clarify interpretation, improve readability, and provide clarification.

The draft amendments are attached as Schedule 'A'.

Property Description

The amendment is considered City-wide because it does not impact a single or collection of properties specifically. For this reason, no mapping is provided, and no description of lands is necessary. The draft amendment attached (Schedule A) details which zones are subject to the proposed amendment.

Process Details

The process relating to the formal application has proceeded as follows:

Date	Step
April 20, 2022	Technical Report to Community Services Committee
May 06, 2022	Notice of Complete Application and Public Meeting

Date	Step
May 24, 2022	Accessibility Advisory Committee
May 30, 2022	Public Meeting
June 27, 2022	Recommendation Report

Analysis:

The housekeeping amendment is required to be consistent with the Provincial Policy Statement (PPS) and in conformity with the City Official Plan (OP). The amendment was subject to review by the City's Development Team and external commenting agencies.

The sections below examine each of the proposed amendments by section of the Zoning By-law and how the changes are consistent with the PPS and implement the direction of the OP.

Section 4: Definitions

In the draft by-law, certain definitions are proposed to be altered or deleted for the purposes of this amendment.

- The terms 'Body Piercing Establishment' and 'Tattoo Parlour' are proposed to be deleted and encompassed within the definition of 'Personal Service Use'. The term Personal Service Use is proposed to be further amended to remove reference to other uses otherwise defined in the by-law, such as a Clinic. Inclusion of tattoos and piercing into the definition of personal service use means that these uses will be permitted across all commercial zones, as opposed to just the Core Commercial (C1), which they are currently.

With regard to long-term economic prosperity, the PPS calls for Planning Authorities to maintain and, where possible, enhance the vitality and viability of downtowns and main streets. It further calls for the protection of employment lands. The noted change effectively removes commercial tattoo and body piercing establishments from the industrial park as a permitted use and moves them into a broader range of commercial zones. The proposed amendment is consistent with the PPS.

The OP references personal services used in a wide range of designations, including the River District, East and West City Commercial, and Arterial Commercial. The OP does not contemplate tattoo and body piercing as standalone uses. By enhancing and refining the definition of Personal Service Use, which applies in all commercial zones, the change conforms with the City OP.

- The term 'Dwelling, Converted' is proposed to be modified to remove reference to a building originally designed to contain a non-residential use. In circumstances where a non-residential building or portion thereof is proposed to be modified to contain a residential use, this would be included under other existing residential dwelling types, such as an Apartment, or dwelling unit in combination with a non-residential use.

The PPS requires the efficient use of land and resources. Allowing for conversion of non-residential buildings to contain residential uses encourages the growth of local housing stock and wise management of resources (land, existing buildings). The change will not prevent the conversion of non-residential uses to residential uses. The change is consistent with the PPS.

The OP includes provisions for legal non-conforming buildings, which were constructed historically and do not necessarily meet today's site and building regulations. The change to the converted dwelling definition does not remove any legal-non conforming protections for adaptive reuse of historic buildings. The change conforms with the City OP.

- Add new definitions of Model Home, Accessible Aisle, Accessible Stall, Indirect Sales, and Vehicle-for-Hire Service and revise the definitions of Studio, Catering Service, and Bed & Breakfast House to support amendments to the general provisions of the by-law (Section 5) for accessible parking regulations and home occupations.

The new definitions are useful to update the zoning by-law to a more modern standard. The changes are consistent with other Zoning By-laws in the Province and the broadly understood meaning of the terms. The new defined terms relating to accessibility are consistent with the terminology of AODA and were supported by the City's Accessibility Advisory Committee. The new definitions are consistent and conform with the PPS and OP.

- Minor administrative amendments to certain industrial terms (e.g., vehicle body/repair shop, light industrial use, indoor storage) and the terms 'Lot Frontage', 'Laundromat', 'Museums/Galleries', and 'Repair Store' are also proposed.

The administrative amendments are important to maintain clarity in the Zoning By-law. The minor amendments are consistent and conform with the PPS and OP.

Section 5: General Provisions

The bulk of housekeeping amendments are proposed to the General Provisions section of the by-law.

Three (3) sections providing use-specific regulations for Group Homes (Sec. 5.17.3), Body Piercing Establishments and Tattoo Parlours (Sec. 5.17.7) and Boarding or Lodging Houses (Sec. 5.17.10) are proposed to be removed in their entirety.

The purpose of these regulations is to require that certain uses are distanced from other "sensitive" land uses and/or from uses of the same type. For example, Sec. 5.17.7 requires that a Body Piercing Establishment be located a minimum of 200 m from an institutional zone, residential zone, and any other Body Piercing Establishment. These provisions do not account for potential land-use change, and the City has no method of tracking and/or enforcement of the required distance between land uses. As discussed above, the altered general provision and the new definition of Personal Service Use are consistent and conform with the PPS and OP.

Similarly, Sec. 5.11 (Dwelling Units Below Grade) of the by-law, which requires that a dwelling unit located in a basement be at least 50 percent (50%) above grade, is proposed to be removed. In the experience of Planning Staff, this general provision severely limits the ability to create a second dwelling unit within the lower level of an existing dwelling, despite the requirements of the Ontario Building Code for clearance height and egress being met. In 2021, Planning Staff processed two (2) minor variance applications to vary this section of the by-law. The PPS states that healthy, liveable and safe communities are sustained by, among other things, accommodating an appropriate affordable and market-based range and mix of residential types. This sentiment is echoed by the City's OP in a number of areas. By removing this limitation and deferring to the Building Code,

housing options will be increased, and life safety is protected. The change is consistent and conforms with the PPS and OP.

For administrative clarity, several sections within the General Provisions of the Zoning By-law are proposed to be modified as follows:

- Modify Sec. 5.17.5 to require a minimum of 12.0 m of lot frontage for public parks in accordance with policy 7.4.2.3 of the City's OP.
- Modify format of provisions for accessory buildings and structures (Sec. 5.9) and permitted yard encroachments (Sec. 5.8) to a table format to improve the readability of the by-law.
- Update barrier-free parking regulations (Sec. 5.19) to align with the requirements of the Accessibility for Ontarians with Disabilities Act (AODA).
- Remove automotive-dependent uses (e.g., car washes) from the requirement to provide bicycle parking (Sec. 5.20).
- Modify Sec. 5.17.9 to clarify and add additional criteria to home businesses. Add a new subsection to regulate certain uses that are restricted or prohibited as a home business.
- Revise Sec. 5.23 to clarify that a parking area containing more than four (4) stalls or loading area abutting any use or undeveloped land in any zone requires adequate landscape buffering.

The majority of the abovementioned changes provide clarity of interpretation and ease of use of the general provisions. The update to the barrier-free parking regulations to be consistent with AODA and the recommendation of the City's Accessibility Advisory Committee has a well-defined grounding in the PPS and City OP. The PPS includes improving accessibility for persons with disabilities and older persons in the tenants of a healthy, liveable, and safe community. The City OP has, among its eight goals and objectives, equity, diversity, and inclusion, which includes the objective to provide a safe and accessible urban environment with a mix of uses, activities, experiences, and opportunities, for persons of all abilities (Sec. 2.2.6). The changes are consistent and conform with the PPS and OP.

The new home business section of the Zoning By-law provides clarity and reduces the burden of establishing a home-based business. A home business has historically been permitted within a dwelling unit as an accessory use, subject to regulations. This approach is proposed to continue with modified

provisions. The changes reflect the uniqueness of home businesses and the small-batch/artisanal goods and services they may produce.

The PPS requires that Planning authorities promote economic development by providing opportunities for a diverse economic base and maintaining land use compatibility. The new home business provisions achieve these requirements. Sec. 3.19 of the City's OP outlines policy relevant to home businesses, including the maintenance of the residential character and the provision of parking. The new general provision on home businesses implements this section of the OP. The changes are consistent and conform with the PPS and OP.

A new section is proposed to be added to the general provisions of the by-law pertaining to the location and buffering of outdoor waste receptacles on a lot. A very minor amendment to clarify the application of the regulation is also proposed to be made to the lighting & landscaping of the parking and loading areas section.

The amendments to the by-law for landscape buffers adjacent to waste receptacles and parking/loading areas are consistent with the PPS policies respecting energy conservation, air quality and climate change. The PPS calls for planning authorities to promote site design that considers the mitigating impacts of vegetation on a changing climate and maximizes vegetation within the settlement area. Increasing permeable areas on private sites also supports PPS policy respecting improving and restoring water quality and quantity through enhanced stormwater management. The changes are consistent with the PPS.

The proposed amendment implements a similar policy in the City OP in several ways. Site design policies within the River District require that parking areas maintain distinct street edges through an appropriate mix of landscaping and that the City shall encourage and provide the highest quality of urban design in the River District Commercial area through landscaping things. The OP also calls for promoting the principles of living streets through enhanced landscaping and landscaped areas. Sec. 8 of the OP contemplates urban design in detail and focuses in many respects on the importance of landscaping to beautify the urban landscape and provide definition/separation between uses. The changes conform with the OP.

Finally, a new section is also proposed to regulate the construction/ placement of model homes within a draft plan of subdivision or a description

under the Condominium Act. This section support efficiency in the provision of housing and implements the policy framework expressed through the approval of the Plan of Subdivision/Condominium. The changes are consistent and conform with the PPS and OP.

Section 6: Residential Zones

The following changes are proposed to Section 6 of the by-law, which outlines the uses and site and building regulations pertaining to residential zones:

- Modify section 6.1 (i) to permit an Accessory Apartment within a Single Detached Dwelling in all residential zones, including in the R1 Zone as of right and remove the requirement for the dwelling to be owner-occupied as directed by provincial legislation.
- Remove minimum gross floor area (GFA) requirements for all residential dwelling types (e.g., 90 m² for a single detached dwelling) and defer to the Ontario Building Code.
- Revise the required interior side yard setback to 0.0 m for semi-detached and townhouse dwellings, where there is a common party wall.

As noted above, with the removal of the requirement that 50 percent of a dwelling unit be located above grade, the proposed changes to Section 6 of the Zoning By-law facilitate the creation of new dwelling units. Removal of the minimum GFA for dwelling units is proposed throughout the By-law. In all cases, removing this limitation and deferring to the applicable Building Code requirements increases housing options and protects life safety. The change is consistent and conforms with the PPS and OP.

Establishing a 0 m setback for a common/party wall is a technical revision.

Section 7: Commercial and Mixed-Use Zones

The following changes are proposed to Section 7 of the by-law, which outlines the uses and site and building regulations pertaining to commercial zones:

- Remove Body Piercing Establishments and Tattoo Parlours as a permitted use, as these are proposed to be defined and permitted as a 'Personal Service Use'.

- Add a Group Home as a permitted use in the C1 and MC Zones, consistent with permissions previously provided under Sec. 5.17.3.
- Add a single-detached, semi-detached, and duplex dwelling as a permitted use in the MC Zone, as existing on the effective date of the by-law, consistent with the zoning provisions outlined in Sec. 7.7.
- Clarify that a Converted Dwelling located in the MC Zone is permitted as of right and therefore, is subject to the MR Zone provisions.
- Modify the C1 Zone provisions to require a minimum building height of 6.0 m (2 storeys) for Commercial Uses fronting onto 2nd Avenue East, between 7th Street East and 11th Street East, and those lots fronting onto 8th, 9th, and 10th Streets East between 1st Avenue East and 3rd Avenue East.
- Remove the required minimum gross floor area of 35 m² per dwelling unit.

Most of the amendments referenced above are technical or have been discussed previously in this report. Adding a group home as a permitted use in the C1 and MC zone is supported in the PPS and OP as it facilitates the provision of housing for diverse users in proximity to services and amenities.

The proposed amendment to establish a minimum building height within specific areas of the C1 zone reflects the PPS requirement that Planning authorities encourage a sense of place by promoting a well-designed built form and conserving features that help define character. The character of the City's historic River District is defined in large part by the multi-storey buildings that address the street with zero or minimal setbacks. The City's OP supports the consideration of building height as a contributing factor to the comfort and aesthetic of the built form in this important area of the City. The changes are consistent and conform with the PPS and OP.

Section 8: Industrial Zones

Two (2) minor modifications are proposed to Section 8 of the by-law, which outlines the uses and site and building regulations for Industrial Zones. Specifically, body piercing establishments, tattoo parlours, and places of worship are proposed to be removed as permitted uses.

The changes relevant to tattoo and piercing establishment have been discussed extensively. Concerning removing places of worship as a permitted

use, the PPS and City OP characterize a place of worship as an institutional use. The OP stipulates those institutional uses should be located only where they are complimentary to adjacent land uses and are included as permitted in a number of designations, including residential and commercial. Institutional uses are not permitted in the Employment designation. The changes are consistent and conform with the PPS and OP.

A new Section 8.1 (i) has been added pertaining to accessory uses within an Industrial Mall, which previously existed under Sec. 5.9 of the by-law. This technical change relocates a provision within the By-law without modification.

Section 9: Institutional Zones

The institutional zone provisions listed in Section 9.2 are proposed to be slightly modified to ensure consistency with the updated use-specific regulations for Places of Worship provided in Section 5.17.4. These are minor technical modifications.

Section 14: Special Provisions

Various administrative amendments are proposed to Section 14 to improve the readability of certain Special Provisions and ensure that the correct reference is made to underlying zone provisions. These are minor technical modifications.

Zoning Maps

A modification is proposed to Zone Map 12 to clarify that Special Provision 14.69 applies only to lands municipally known as 651 19th St E (Curling Club). Zoning Map 6 is proposed to be modified to renumber 14.102 to 14.126 to delete duplication in numbering. These are minor technical modifications.

City Staff & Agency Comments

In response to the request for comment from the Planning & Heritage Division, the following comments have been submitted for review pertaining to the subject application. No comments from the public have been received. All comments can be found attached hereto as Schedule 'B'.

City of Owen Sound Building Division

Comment has been received from the City's Building Division with no objection to the subject proposal. Staff have indicated an opportunity for a point of clarification that merits inclusion in the portions of the General Provisions (Sec. 5) of the Zoning By-law that is subject to review as part of this housekeeping amendment exercise.

- To the modified home business provisions, add additional clarifying wording relative to the mitigation of nuisance:
 - 'The home business shall not create or become a nuisance regarding odours, vibrations, traffic generated or parking or by producing noise at the property line or noise that disturbs the inhabitants in contravention of the Noise Control By-law'.

The suggestion has been included in the draft amendment.

City of Owen Sound Engineering & Public Works Department

Comment has been received from the City's Engineering & Public Works Department with no objection to the subject proposal. Staff have indicated an opportunity for a point of clarification that merits inclusion in the portions of the General Provisions (Sec. 5) of the Zoning By-law that is subject to review as part of this housekeeping amendment exercise.

- To the modified provisions for lighting and landscaping of parking and loading areas, add the maximum light temperature permitted:
 - Lighting facilities are to meet minimum illumination standards of 6.2 lux, a maximum to minimum uniformity ratio of 3:1 and be dark sky compliant. Luminaires are to have a correlated colour temperature (CCT) of 3000° +/- and be LED type.

The suggestion has been included in the draft amendment.

City's Accessibly Advisory Committee

At its meeting on May 24, 2022 the Accessibility Advisory Committee considered report [CS-22-073](#) respecting the housekeeping amendment and matters of accessibility. The staff report outlined the proposed modifications that would directly impact accessibility in the built environment, including the new definitions and the new provisions for accessible parking requirements. The Committee viewed the amendments favourably and recommended the following additional provision:

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- Where an odd number of accessible stalls is required by Section 5.19.1, an equal number of Type A and Type B accessible stalls must be provided, but the additional accessible stall, the odd-numbered stall, shall be a Type A accessible stall.

This inclusion clarifies above and beyond the AODA Integrated Accessibility Standards and has been integrated into the draft amendment.

Grey County

The City's new OP was considered and adopted by County Council on January 13, 2022. The County Staff Report that accompanied the recommendation for adoption argued that the City's OP was consistent with the PPS and the 2019 County Official Plan.

The City of Owen Sound is designated as a 'Primary Settlement Area' in the County of Grey Official Plan (County OP). Settlement areas with full municipal services are to be the focus of the majority of growth within the County. The County OP promotes a full range of residential, commercial, industrial, recreational, and institutional land uses within Primary Settlement Area. Land-use policies and development standards are to be in accordance with the local Official Plan.

The County has been consulted on the proposal, and County staff have no objection to the application. County staff recognize that the City is planning to move forward with a comprehensive update of the Zoning By-Law to fully reflect the 2021 City Official Plan, the County Official Plan, and the Provincial Policy Statement in 2023.

Financial Implications:

None to the City.

Communication Strategy:

Notice of Complete Application and Public Meeting was given on May 6, 2022, in the Sun Times Newspaper in accordance with the Planning Act. The Public Meeting was held on May 30, 2022.

Notice of Decision will be given after the Zoning By-law Amendment is passed, which is anticipated to occur on July 11th. A twenty (20) day appeal period follows notice.

Consultation:

The application was circulated to various City Departments and our commenting agencies as part of the consultation process.

Attachments:

Schedule 'A': Draft Amendment

Schedule 'B': Comments Received

Recommended by:

Amy Cann, Manager of Planning and Heritage

Pam Coulter, Director of Community Services

Submission approved by:

Tim Simmonds, City Manager

For more information on this report, please contact Amy Cann, Manager of Planning and Heritage at acann@owensound.ca or 519-376-4440 ext. 1232.