



# Kingston ZONING BYLAW

## **Kingston Zoning By-law and proposed Official Plan Amendment: Final Draft Highlights**

This document is provided for reference purposes only to highlight the major changes between the second and final drafts of the zoning by-law. There are a number of changes that have been made since the second draft was released on August 6, 2021 – this document is provided as a matter of convenience and is not intended to replace a fulsome review of the text and mapping of final draft.

A summary of the major changes to the proposed Official Plan amendment related to the new Kingston Zoning By-Law and the Central Kingston Growth Strategy made since Public Meetings were held are included at the end of this document.

### **Kingston Zoning By-law**

#### **Parts 1 to 5**

The final draft has been posted in Parts 1 to 5, as follows:

1. Part 1: Sections 1 to 19 (Administration, Interpretation of this By-law, Definitions, General Provisions, Overlay Provisions, Specific Use Provisions, Parking, Loading and Bike Parking Provisions, Rural Zones, Rural Industrial Zones, Mixed Use Zones, Urban Residential Zones, Urban Multi-Residential Zones, Heritage Zones, Institutional Zones, Commercial Zones, Employment Zones, Transportation and Utilities Zones, Open Space Zones and Environmental Zones)
2. Part 2: Section 20 (Legacy Exceptions)
3. Part 3: Section 21 (Exceptions)
4. Part 4: Section 22 (Holding Conditions)
5. Part 5: Sections 23 and 24 (Temporary Zones and Amendments to this By-law)

The intent of breaking the document into five separate parts is to recognize that there are specific sections, namely Sections 21, 22 and 24, that are amended much more frequently than the remainder of the Sections of the zoning by-law through site specific rezoning applications. Organizing the document into Parts now allows the page numbering for

Sections 21, 22 and 24 to be dedicated specifically to those sections, which means that future amendments will be more easily accommodated in the document in an organized manner.

### **Transition of Active Applications**

Subsection 1.6. of the Kingston Zoning By-law includes a number of transition provisions that are intended to allow for a smooth transition between the existing zoning by-laws and the new Kingston Zoning By-law for applications that are deemed complete prior to Council's enactment of the new Kingston Zoning By-law.

For applications that amend or vary the language of the zoning by-law in some manner, for example a rezoning application under Section 34 of the *Planning Act*, or a minor variance application under Section 45 of the *Planning Act*, staff intend to work closely with the applicants on applications that were deemed complete prior to Council's enactment, but no decision is made on the application until after Council's enactment. Some of these applications would technically qualify under the transition provisions in Subsection 1.6., however, would benefit from receiving approvals in the context of the new Kingston Zoning By-law.

If Council enacts the new Kingston Zoning By-law and no appeals are received within the appeal period, any rezoning or minor variance approvals that happen after the appeal period will be made under the new Kingston Zoning By-law.

If Council enacts the new Kingston Zoning By-law and appeals are received during the appeal period, any rezoning or minor variance approvals that happen while the new Kingston Zoning By-law is under appeal will require two different sets of approvals: one to the existing, in-force zoning by-law and one to the new Kingston Zoning By-law. This will help to ensure that approvals made during this period of time are properly reflected in the new Kingston Zoning By-law if and when the Ontario Land Tribunal issues an order that would deem the new Kingston Zoning By-law to be in full force and effect.

#### **3.1.7. Agricultural Use**

The definition of "agricultural use" has been expanded to include "or other agricultural activities such as the packaging, selling, sorting or storage of goods grown or raised on the lands" to ensure that farm-stands and other buildings that are connected to the agricultural use are explicitly permitted as part of the overall agricultural use.

#### **3.1.8. and 3.15.3. Agriculture-Related Use and On-Farm Diversified Use**

The definitions of "on-farm diversified use" and "agriculture-related use" have been expanded with a list of example uses that would fit into these categories in a manner that aligns with the guidance and direction provided by the Province. The inclusion of these

examples help to provide context to the definition and understand the types of uses that will be required to proceed through a minor variance process with the City in accordance with the proposed revisions to the OP policies.

### **3.1.9. Agritourism**

A new definition of “agri-tourism” has been added to allow for a range of on-farm diversified uses in the AG Zone and RU Zone. The “agri-tourism” definition includes a range of activities and experiences that support the agricultural way of life in the rural area such as hayrides, corn mazes, petting zoos, “pick your own” produce, etc. This ensures that these uses can be established without any required permissions.

### **3.3.21. Conference Centre**

A new definition of conference centre has been added and not permitted as-of-right in any zones in the Kingston Zoning By-law. This ensures that any future proposed conference centres will be required to proceed through a rezoning application which will require an in-depth review of the proposal against the applicable Official Plan policies and locational context.

### **3.13.7. Mineral Aggregate Operation**

The definition of “stone quarry” has been removed and replaced with a new definition of “mineral aggregate operation” that is consistent with the definition contained in the Provincial Policy Statement and Official Plan. This will ensure that all uses that routinely occur at quarries and pits will be permitted such as aggregate recycling, contractor’s yards, processing plants, etc.

### **3.19.9. Setback and Yards – Definitions and Illustrations**

The definitions of front, rear, interior and exterior yards have been updated to better reflect existing standards and to include language that more easily translates to unique, non-rectangular lots such a triangular lot. The definition of rear setback has been updated to better address lots that do not have a rear lot line.

### **4.1.3. Bunkhouses and General Living Areas in Accessory Buildings**

A new section has been added to the accessory building provisions dealing with sleeping accommodations that are not full dwelling units with a kitchen and bathroom. A new definition of bunkhouse has been added and has been permitted in the rural area in an accessory building, subject to specific requirements. One of the requirements that has been included is the requirement that the floor area is greater than 10 square metres to ensure that a bunkhouse will be large enough to require a building permit. Bunkhouses are not permitted in the urban area.

Additional permissions have been added to both the urban and rural areas allowing for general living areas to be located in an accessory building including amenity areas, studies, dens, living rooms, recreational spaces and studios, subject to specific requirements. Similar to bunkhouses, a minimum floor area of 10 square metres has been established to ensure the accessory building is required to obtain a building permit.

### **4.3. Accessibility and Amenity Areas**

A new provision has been added to the amenity area requirements ensuring that a barrier free pathway is provided to exterior amenity areas when they are provided as communal spaces.

### **4.24. Setbacks from Pipelines**

The second draft included language that specifically tied separation distances to natural gas pipelines. In the final draft, the language has been broadened to ensure the setbacks are applied to all types of pipelines, including liquid oil products and a new provision has been added to ensure elementary schools and secondary schools are required to maintain a 30 metre separation distance.

## **5.2. Source Water Protection Overlay**

The provisions of the Source Water Protection Overlay have been streamlined in an effort to rely directly on the Cataraqui Source Protection Plan rather than including excerpts of language. This will help to ensure that the intent of the Plan is maintained in the appropriate context and that any changes that are made to the Plan do not require subsequent revisions to the Kingston Zoning By-law to stay up to date. The new language also allows for the flexibility of the Plan to be maintained where a Risk Management Official has authorized an activity, where the language in the second draft did not provide this flexibility. All definitions that were included in the second draft due to the previous language of Subsection 5.2. have been deleted.

## **5.6. and 22. Holding Overlay**

The “-H” holding symbol has been removed from the Zoning Map in favour of the creation of a new Schedule F – Holding Overlay, with corresponding provisions outlining the applicable conditions that must be satisfied before removing the Holding Overlay.

### **6.15.4. Adaptive Reuse of Schools and Community Facilities**

The final draft includes new provisions allowing for existing schools and community facilities to be adaptively reused for other schools or community facilities regardless of the zone they are located in, with the exception of an Employment Zone. The City recognizes that these purpose-built facilities are often designed in a manner that limits the easy adaptation and reuse by a different use. Changing from one of these uses to another achieves many Official

Plan objectives including those focused on climate change and will allow existing facilities to continue to support neighbourhoods in a similar manner.

## 7.1. Non-Residential Parking Minimums

The parking minimums for non-residential uses have been removed upon further review and reflection of the stated goals, objectives and priorities established, which had identified the removal of parking minimums as one of the options that should be considered.

The project team gave significant consideration to all we have heard and learned regarding perhaps the most challenging initial question identified in this creative process of rethinking parking through the [Power of Parking: A New Parking Paradigm for Kingston?](#) — should we simply remove parking minimums (as a growing number of cities have done/are doing), or should we maintain a reduced level of parking minimums combined with mechanisms to achieve additional public interest objectives?

Since the initial drafting of preferred options in the Power of Parking document, we have shifted away from incentives and toward requirements in a number of circumstances where legally permissible and strategically beneficial to do so. Many of the achievements we initially thought we would need to incentivize, have concluded we can and should simply require. This has allowed us to consider whether we still needed to leverage further lowered parking spaces, and indeed whether such an opportunity would likely be attractive to applicants in the short to medium term.

In the case of residential development, we have concluded that a lowered parking minimum combined with a strategic cash-in-lieu of parking option (with funds going specifically to a car-share system), is still a larger strategic public interest opportunity worth seeking. Dedicated car-share spaces would now be required by zoning regulation rather than incentivized in projects to ensure the car-share program has physical parking spaces on-site, and the optional cash-in-lieu is intended to provide a level of funding for vehicles and maintenance to help support a successful operation in a way that offsets the reduction of on-site parking spaces. The proposed new cash-in-lieu of parking by-law has updated the cost and states that funds are to be used to support car-share services in the City. Because it is expected that on-site car-share spaces in residential projects are expected to be a bedrock of the success of such a car-share program, this approach to parking minimums makes strategic sense and reflects an integrated approach to public policy.

In the case of commercial, institutional, employment and all other non-residential parking minimums however, our further deliberations have led to a different conclusion. Although we had previously proposed significantly reducing parking minimums for such land uses, we have since concluded that non-residential lands do not represent the strategic opportunity to support a car-share program that residential developments do, and thus represent an opportunity for a simpler and more straightforward public objective of seeing less parking

built. Thus, for these land uses, we are now recommending the complete removal of parking minimums.

The removal of parking minimums for non-residential uses simplifies the application of the Kingston Zoning By-law and will help to ensure that the City is not mandating a specific number of parking spaces without a nuanced understanding of the many factors that must be considered when providing parking spaces on individual properties.

In conjunction with the removal of parking minimums, revisions have been made to the way that accessible parking space requirements are calculated. As stated in the Power of Parking, the intent of the accessible parking component of this work is to ensure that while parking minimums are reduced or eliminated, that accessible parking requirements will remain the same. Since the Provincial standard is rigid in its formula, the final draft includes a new definition of “effective ratio” which essentially establishes a minimum parking ratio for uses only for the purpose of calculating accessible space requirements. The standard requires the accessible space ratio to be calculated based off of the greater of the number of parking spaces actually provided on a property or based on the effective ratio. This means that, where a property owner provides more spaces than what is considered by the effective ratio, the accessible space calculation is higher and based on the actual supply.

The removal of minimums for non-residential uses also means that the previous subsection in the second draft that gave permissions for shared parking has been deleted, since these permissions were based on required minimums, so they are no longer valid.

While stated in the Power of Parking, it is worth reiterating that the removal of parking minimums from non-residential uses does not mean that no parking will be provided on private properties. The City expects private property owners to provide the parking that is required to fill the demand for their individual circumstance and location in the City. The municipal supply of parking is generally not intended to provide space for private use or intensified residential overflow.

The municipal supply of parking, where it can continue to be provided without detracting from active transportation and transit needs, is meant to support short-term trips, delivery vehicles and other movements that have a broader public interest for the City. It should be assumed that the municipal supply of parking will be continually reduced as it is converted to other more appropriate uses, and that the spaces that remain will be regulated to ensure that the supply we do have is used appropriately and strategically. The removal of parking minimums for non-residential uses in the zoning by-law is not intended to shift the burden of providing parking to the City.

### **7.1.8. Lesser Parking Requirements Prevail**

A new clause has been added to apply the lesser standard for regular parking spaces where two or more standards conflict. This means that where a site-specific exception was passed

with a higher standard than what would be required by the New ZBL, the lesser general parking requirement will apply. This ensures that the parking provisions are applied equitably across all properties regardless of whether those properties have received approval of a site-specific exception in the past or not.

### **8.7. Hamlet Zone (HAM Zone)**

In the second draft, the Hamlet designated areas of the City were split into three separate zones – HR (Hamlet Residential), HC (Hamlet Commercial) and HI (Hamlet Institutional). The Official Plan does not make the distinction between these three areas and, instead, identifies designated Hamlets as the rural service centres that are the designated settlement areas in the Rural Area. The Official Plan supports a mix of uses in Hamlets and recognizes that they have traditionally been a small service centre and the focal point for the surrounding rural community.

The Official Plan permits one and two unit residential dwellings, parks, open spaces, neighbourhood commercial type uses, or commercial uses that are related to the surrounding rural and agricultural community. It includes permissions for community facilities, places of worship, community centres.

The final draft of the Kingston Zoning By-law includes one consolidated Hamlet Zone (HAM) and the mapped boundaries of this new HAM zone now align exactly with the designated Hamlet lands in accordance with the Official Plan. The HAM Zone has been moved from its own separate Section (previously Section 9) into a subsection of the Rural Zones (now Subsection 8.7).

### **8.9. Mixed Use Zones**

The revisions to the HAM Zone described above mean that Section 9 no longer has a zone category. Rather than renumbering the remainder of the Zone (including all section references, tables, clauses, etc.), the Rural Industrial Zones were moved from Section 10 to Section 9 (to keep the rural categories together) and a new Mixed Use Zones section has been established in Section 10. The Williamsville Main Street Zones (formerly CM1 and CM2, now WM1 and WM2) and the Downtown Zones (DT1 and DT2) have been moved from the Commercial Zone section into the new Mixed Use Zone section. Through work completed in future policy projects, Staff expect that a new mixed use zones will be required to be created in the future. The final draft of the Kingston Zoning By-law has created the foundation for new mixed use zones to be created through future amendments to the zoning by-law.

### **11.2. – 11.4. Urban Residential Zones 1, 2 and 3 (UR1, UR2 and UR3)**

The Urban Residential Zones 1, 2 and 3 primarily apply to lands that have been, or are intended to be, developed through a plan of subdivision within the urban boundary. These zones have been substantially revised from the second draft. While the permitted uses



within each zone are generally consistent with the second draft, the setbacks and performance standards for these zones within the final draft of the Kingston Zoning By-law have been reworked to balance existing zone requirements and recent development trends. Two sub-zones were added to each zone to enable the final draft of the Kingston Zoning By-law to establish setbacks and performance standards that are appropriate for small, medium, and large lots within each zone. The zones have been designed to build off each other, where each sequential zone enables additional uses but carries forward the uses, setbacks and performance standards established by the preceding zone. This incremental approach simplifies the regulation of low-density residential uses within these zones.

Through this work, two areas of the City that are planned for future subdivision residential in Woodhaven and Midland Park are proposed to be pre-zoned to allow for future residential to be constructed after proceeding through necessary plans of subdivision and satisfying all technical requirements of the City. An additional parcel on Gore Road within the urban boundary has also been pre-zoned for residential in a similar manner.

### **11.6 – 11.14. Urban Residential Zones 5-13 (UR5 to UR13)**

The Urban Residential Zones 5 to 13, inclusive, primarily apply to lands located within Central Kingston. Given that this area is primarily built-up, the minimum front setback and minimum exterior setback requirements for non-residential uses permitted in these zones were revised to recognize deficient setbacks where they exist. Averaging of setbacks based on adjacent properties is not proposed for non-residential uses.

In the UR8, UR9, UR10, UR12 and UR13 Zones, the second draft of the Kingston Zoning By-law included minimum lot area requirements for a duplex, which were different from those for a single-detached dwelling. Given the proposed regulations in the final draft related to additional residential units, different lot area requirements for a single-detached dwelling and a duplex are no longer proposed. The same minimum lot area requirement that applies to a single-detached dwelling would apply to a duplex in the final draft.

### **12.4 Urban Multi-Residential Zone 3 (URM3) and 13.4 Heritage Zone 3 (HCD3)**

A maximum density provision is proposed to be added in the Urban Multi-Residential Zone 3 (URM3) and Heritage Zone 3 (HCD3). These areas are located within Central Kingston and are currently regulated by Zoning By-Law Number 8499, which permits a maximum density of 69 dwelling units per net hectare for these areas. The maximum number of units permitted per lot is 6. Based on consultation with Utilities Kingston, the same maximum density is proposed to be carried forward in the final draft of the Kingston Zoning By-law as many of these areas are on combined sewers, resulting in servicing constraints.



## 12.5 Urban Multi-Residential Zone 4 (URM4)

The second draft of the new Kingston Zoning By-law included minimum lot area requirements in the URM4 Zone based on the type of residential use (i.e., duplex, triplex, townhouse and apartment building). Based on feedback received, the minimum lot area requirements were revisited, resulting in a reduction in the minimum lot area requirements for a duplex, a triplex and a townhouse use.

## 12.10. – 12.13. Urban Multi-Residential Zones 9-12 (URM9 to URM12)

The Urban Multi-Residential Zones 9-12 apply to the intensification areas identified through the Central Kingston Growth Strategy. In the second draft of the new Kingston Zoning By-law, lots located on Johnson Street near Portsmouth Avenue were proposed to be included in the URM9 Zone as one of intensification areas. Based on public feedback received, this area is no longer proposed to be included in an Urban Multi-Residential Zone. The properties located within this area are proposed to be brought into the Urban Residential 6 (UR6) Zone east of Portsmouth Avenue and the Urban Residential 7 (UR7) Zone west of Portsmouth Avenue. Because of these changes, the Holding Overlay would no longer apply to this area.

The change has also led to re-labeling of some of the other Urban Multi-Residential Zones in the final draft of the New ZBL as follows:

- The URM11 Zone in the second draft of the new Kingston Zoning By-law is proposed to be re-labeled as URM9 in the final draft.
- The URM12 Zone in the second draft of the new Kingston Zoning By-law is proposed to be re-labeled as URM11 in the final draft.
- The URM13 Zone in the second draft of the new Kingston Zoning By-law is proposed to be re-labeled as URM12 in the final draft.

The areas included within the newly re-labeled URM9 – URM12 Zones are proposed to be included in Parking Area 2 on Schedule 2 of the final draft of the new Kingston Zoning By-law.

## 14.3. Residential Uses in IN2 Zone

The list of permitted uses in the IN2 Zone has been updated to include all residential building types to ensure that the existing permissions carry forward and to recognize the range of residential uses that currently exist in this area. The permissions for residential buildings in these areas have been modelled after the proposed provisions of the UR5 Zone in a manner that is consistent with the current approach.

## 15.7. Regional Commercial Zone

The minimum lot area has been adjusted to 14 hectares to reflect the applicable Official Plan policy. A new provision requiring a minimum leasable floor area of 30,000 square metres has also been added to conform with the Official Plan.

## 16.2. – 16.4. Industrial Zones (M1, M2 and M3 Zones)

The second draft prohibited outdoor storage within the Business Park Industrial (M1), General Industrial (M2) and Heavy Industrial (M3) zones on a lot adjacent to a non-Employment zone. This has been revised to propose that outdoor storage be permitted on a lot that is not adjacent to an Urban Residential Zone, Urban Multi-Unit Residential Zone or Heritage Zone or on a lot that is adjacent to an existing residential use. Further, the maximum area of outdoor storage within the M1 zone is proposed to be reduced to 15% and increased to 30% in the M2 zone. These amendments are intended to implement Official Plan policies to promote employment uses, while protecting sensitive residential uses. The Kingston Zoning By-law will continue to regulate outdoor storage by requiring appropriate setbacks, maximum lot area and minimum screening requirements.

## 18.1. Open Space Zones

The names of OS1 and OS2, formerly the Minor Open Space Zone and Major Open Space Zone, have been revised to Protected Open Space Zone and General Open Space Zone to better reflect the permitted uses and the intent of the zones.

The permitted uses in OS1 zone have been revised to remove buildings and reflect the intent of protecting the OS1 zone for open spaces, stormwater management areas and parks. OS2 zones apply to parks and other open space areas where it is anticipated buildings and other equipment will be constructed.

The mapping of the OS1 and OS2 zones throughout the City has been reviewed and updated accordingly. Site specific exceptions that apply to these lots has also been reviewed and, where appropriate, exceptions have been deleted.

## 20. Legacy Exceptions

The “green” legacy exceptions, as described in [Council Report 21-267](#), have been moved into Section 20 and have been assigned a new Exception Number starting with an “L” on Schedule E – the Exception Overlay. The language has been modernized to remove the word shall and to ensure section references have been updated while carrying forward the existing site-specific permissions.

## 21. Exceptions

A series of new “blue” exceptions have been created as a result of the changes to the UR1, UR2 and UR3 zones, along with a number of other required new exceptions to properly recognize existing zoning permissions. The new “blue” exceptions are included in Section 21 and have been assigned a new Exception Number starting with an E. These exceptions only establish uses and performance standards that are necessary based on the proposed Zone in the Kingston Zoning By-law. The exceptions identified in Section 21 are intended to carry forward specific aspects from the existing zoning by-laws, such as an additional permitted uses or a contextually appropriate setbacks, while otherwise regulating the lands within the context of the new Kingston Zoning By-law.

## Official Plan Amendment Highlights

The following sections highlight the major changes to the proposed Official Plan amendment related to the new Kingston Zoning By-Law and the Central Kingston Growth Strategy that have been made since Public Meetings were held on October 13, 2021 and December 2, 2021, respectively. These sections are provided as a matter of convenience and are not intended to replace a fulsome review of the text and mapping of the final version of the proposed Official Plan amendment.

### 2.3.6 and 10G Central Kingston Specific Policy Area

Section 2.3.6 of the Official Plan which refers to the City undertaking an intensification study for the near campus neighbourhoods is proposed to be deleted as the Central Kingston Growth Strategy is now complete. Previously staff had proposed new wording for this section, however upon further review, the new wording was found to be redundant and is no longer proposed.

Based on feedback received from residents, the portion of Johnson Street near Portsmouth Avenue is no longer proposed to be included in the intensification area. This area has now been removed from the proposed CK-1 Schedule and policy text in Section 10G has been updated accordingly.

The previously proposed Official Plan policy in Section 10G prohibiting new driveway entrances from Sir John A. Macdonald Boulevard or Bath Road has been removed in response to the feedback received and in consultation with Transportation Services staff. Driveway entrances to these sites will be reviewed as part of future development applications.

### 3.3.11 Additional Residential Units

An amendment is proposed to clarify that additional residential units will not be limited by minimum lot area or maximum density requirements within the zoning by-law but may be included to satisfy minimum density requirements where identified in the zoning by-law.

### **3.6 Outdoor Storage in Employment Lands**

Amendments are proposed to enable outdoor storage within the Business Park Industrial designation, except abutting lots that contain an existing residential use or a residential zone. Further, amendments are proposed to clarify that outdoor storage within the General Industrial designation is required to limit visual impacts on major roads and non-industrial uses. Setbacks, maximum lot area and screening requirements will be regulated by the Kingston Zoning By-law.

#### **3.11.4 Agriculture-Related Uses**

The proposed review criteria to establish an agriculture-related use has been updated by removing the maximum gross floor area of buildings associated with the agriculture-related use.

#### **3.11.5 On-farm Diversified Uses**

The proposed review criteria to establish an on-farm diversified use has been updated by removing the maximum lot area provision and by clarifying that certain uses may be considered Type B land uses for the purposes of Minimum Distance Separation calculations.

### **9.4.6 Delegated Authority of Certain Zoning By-law Amendments**

A new section is proposed to be added for specific types of technical zoning by-law amendments where Council may delegate its authority to make decisions, in accordance with recent changes to the *Planning Act*.

### **Schedule 11-C 'Servicing Constraints'**

Schedule 11-C 'Servicing Constraints' and associated references are proposed to be removed from the Official Plan as the new Kingston Zoning By-law will include a similar overlay to identify areas of known or potential servicing constraints. The proposed delegated authority amendments noted above would enable the overlay within the new Kingston Zoning By-law to be easily updated without the need for an Official Plan amendment.