



# SMITHS FALLS

RISE AT THE FALLS

## PLANNING BRIEF

### Housekeeping Zoning Amendment

#### **WHAT IS A HOUSEKEEPING ZONING BY-LAW AMENDMENT?**

In August 2022, Town Council adopted Zoning By-law 10375-2022, which brought forward a much-awaited modernization of our land use planning rules, replacing the previous 1994 Zoning By-law. The new By-law made many changes to the Town's zoning framework, including restructuring the Town's commercial and Downtown zones, allowing more residential development options as-of-right, updating parking requirements and dozens of other large and small updates that aligned with the Town's current zoning needs.

Through the day-to-day use of the By-law, Town staff have identified a number of formatting, technical and interpretation issues that can be addressed through edits that clarify the By-law's intent and make it easier to use for everyone who uses it. This is normal with any zoning by-law, and Council can enact these through a zoning by-law amendment. This is most commonly and colloquially referred to as a "housekeeping" amendment, and for ease of administration, housekeeping amendments typically complete a number of changes to the document at once.

Housekeeping changes are, by definition, minor in scope and do not alter the strategic intent of the By-law. Zoning amendments that fundamentally change the land use rules or zones are typically informed by more targeted consultation and are often a result of policy changes in the Official Plan.

#### **DETAILS OF PROPOSED AMENDMENTS**

This section outlines the proposed changes to the Zoning By-law on a section-by-section basis, including current wording, proposed wording (new wording usually in **bold**) and why the change is proposed.

##### **Sec. 2.11 - Enforcement Provisions**

###### Existing Wording

###### *2.11 Violations and Penalties*

*Every person who Uses any Lot, or Erects or Uses any Building or Structure or any part of any Lot, Building or Structure in a manner contrary to any requirement of this By-law, or who causes or permits such Use or Erection, or who violates any provisions of this By-law or causes or permits a violation, shall be guilty of an offence and subject to the provisions of Section 67 of the Planning Act, R.S.O. 1990, c. 13, as amended, and the Municipal Act, R.S.O. 1990, Chapter M. 45. Further, any person who contravenes any of the provisions of this By-law is guilty of an offence and the procedure with respect thereto, and the penalty upon conviction therefore shall be as provided for in the Provincial Offences Act, R.S.O. 1990, Chapter P. 33 and amendments thereto.*

## Proposed Wording

### 2.11 Violations and Penalties

*Every person who Uses any Lot, or Erects or Uses any Building or Structure or any part of any Lot, Building or Structure in a manner contrary to any requirement of this By-law, or who causes or permits such Use or Erection, or who violates any provisions of this By-law or causes or permits a violation, **shall be guilty of an offence under the Provincial Offences Act, and subject to the penalties provided for in section 67 of the Planning Act, R.S.O. 1990, c. 13, as amended, and the Municipal Act, R.S.O. 1990, Chapter M. 45.***

## Rationale

The proposed updated wording is made on the recommendation of the Town's solicitor as a best practice for enforcement. The existing wording identifies the two different legislative processes for enforcing a zoning infraction (through Superior Court or Provincial Offenses Court); however, the wording of the current penalty provision suggests the municipality may not be able to recover the maximum allowable fine. The proposed wording simplifies the references as well as enables the potential collection of the larger fine available pursuant to the Planning Act.

### **Sec. 4.16 – Keeping of Animals**

#### Existing Wording

*No animals other than Household Pets, as herein defined, shall be kept in any Zone, except as permitted as an Animal Hospital or Animal Care Use in those Zones in which Animal Hospital, Animal Care, and Kennel are permitted. Notwithstanding the foregoing, however where an Agricultural Use which includes the keeping breeding raising and/or grazing of domesticated animals or poultry existed on the date of passing of this By-law, such a Use shall be deemed to be a permitted Use so long as it continues.*

#### Proposed Wording

***Except in accordance with the Town's Animal Control By-law currently in effect or equivalent by-law, no animals other than Household Pets, as herein defined, shall be kept in any Zone, except as permitted as an Animal Hospital or Animal Care Use in those Zones in which Animal Hospital, Animal Care, and Kennel are permitted. Notwithstanding the foregoing, however where an Agricultural Use which includes the keeping breeding raising and/or grazing of domesticated animals or poultry existed on the date of passing of this By-law, such a Use shall be deemed to be a permitted Use so long as it continues.***

## Rationale

The By-law defines "household pets" to specifically exclude poultry such as hens. This proposed change delegates the regulation of chickens (and any other animals) to the Animal Control By-law which is the more appropriate tool to regulate this activity and is easier to enforce. The proposed language allows Council to amend the Animal Control By-law without necessitating a future amendment to the Zoning By-law. This change on its own would not change the rules on keeping poultry, since this activity is still currently not allowed in that By-law.

## **Sec. 4.24 – Objects Stored in Yards**

### Existing Wording

1. *Except as hereinafter provided, no person shall obstruct any required Front Yard or Rear Yard by the location of a Building or Structure, or by the storage of lumber, salvage or similar material.*
2. *In any Residential Zone:*
  - a. *No person shall Use any Lot for the parking or storage of any commercial Vehicle in excess of 2000 kg Vehicle weight.*
  - b. *Notwithstanding the provisions of Subsection a) above, the occupant of any Dwelling may Use any garage situated on the same Lot for the housing or storage of one commercial Vehicle, not exceeding 4,500 kg. (Vehicle weight, which Vehicle is operated by the owner).*
  - c. *No person shall Use any Lot for the outside parking or storage of a:*
    - *Vehicle which has had part of all, or its superstructure removed; and/or*
    - *Vehicle which is unlicensed*
  - d. *Any number of Recreational Vehicles, not exceeding a total length of 11 m may be stored in an Interior Side or Rear Yard provided that the Recreational Vehicle(s) being stored are setback a minimum of 0.6 m from any Lot Line and the line dividing the Side or Rear Yard from the Front Yard.*
  - e. *Where a Recreational Vehicle is parked in any Yard on a Lot, such Recreational Vehicle shall not be used for living or sleeping accommodation for longer than thirty (30) consecutive days by any person in transit between one place and another; but in no event shall such living or sleeping accommodation be leased or rented.*
  - f. *The parking or outside storage of a Recreational Vehicle may be permitted for a period of not more than 72 hours in any one (1) calendar month in a Front Yard or Exterior Side Yard.*
  - g. *Notwithstanding the foregoing, where a Lot is used for a Dwelling or Dwellings containing more than two (2) Dwelling Units, the limitations imposed herein shall not restrict the number of Recreational Vehicles that are stored on the Lot provided the area, Building or Structure used for such storage complies with the Yard provisions of the Zone in which such area, Building or Structure is located has been approved by the Corporation, under a site plan agreement. Such are, Building or Structure shall be in addition to the required parking.*

### Proposed Wording

1. *Except as hereinafter provided, no person shall obstruct any required ~~Front Yard or Rear~~ Yard by the location of a Building or Structure, or by the storage of lumber, salvage or similar material.*
2. *In any Residential Zone:*
  - a. *No person shall Use any Lot for the parking or storage of any commercial Vehicle in excess of 2000 kg Vehicle weight.*
  - b. *Notwithstanding the provisions of Subsection a) above, the occupant of any Dwelling may Use any garage situated on the same Lot for the housing or storage of one*

commercial Vehicle, not exceeding 4,500 kg. (Vehicle weight, which Vehicle is operated by the owner).

- c. *No person shall Use any Lot for the outside parking or storage of a:*
  - *Vehicle which has had part of, or all of its superstructure removed; and/or*
  - *Vehicle which is unlicensed*
- d. ***No Recreational Vehicle may be stored on any lot that does not contain at least one (1) Dwelling Unit.***
- e. *Any number of Recreational Vehicles, not exceeding a total length of 11 m may be stored in an ~~Interior Side or Rear~~ Yard provided that the Recreational Vehicle(s) being stored are setback a minimum of 0.6 m from any Lot Line and the line dividing the ~~Side or Rear~~ Yard from the ~~Front~~ Side Yard.*
- f. ***Unless specifically provided for elsewhere in this By-law, where a Recreational Vehicle is parked in any Yard on a Lot, such Recreational Vehicle shall not be used for living or sleeping accommodation. ~~for longer than thirty (30) consecutive days by any person in transit between one place and another; but in no event shall such living or sleeping accommodation be leased or rented.~~***
- g. *The parking or outside storage of a Recreational Vehicle may be permitted for a period of not more than 72 hours in any one (1) calendar month in a Front Yard or Exterior Side Yard.*
- h. *Notwithstanding the foregoing, where a Lot is used for a Dwelling or Dwellings containing more than two (2) Dwelling Units, the limitations imposed herein shall not restrict the number of Recreational Vehicles that are stored on the Lot provided the area, Building or Structure used for such storage complies with the Yard provisions of the Zone in which such area, Building or Structure is located has been approved by the Corporation, under a site plan agreement. Such are, Building or Structure shall be in addition to the required parking.*

### Rationale

Changes to this section are proposed to clarify intent and facilitate enforcement. While the By-law intent to prohibit the storage of Recreational Vehicles on vacant residential lots is implied by references to “yards”, the new subsection “d” makes that clear. The proposed amendment would also prohibit permanent storage of recreational vehicles within interior side yards (only allowing them in rear yards), which was suggested by the Fire Department for reasons of safety and access. A 30 “consecutive” day limit on habitation of a dwelling is difficult to enforce and administer, and as such staff propose to remove that, which is consistent with most peer zoning by-law provisions reviewed by staff. The By-law does not change the provision allowing RVs to be lived in on a temporary basis during a construction process. The time limit (72 hours in a month) for the parking of an RV in a front or exterior side yard is easier to measure, however Council may request that the By-law be amended to remove that permission altogether (banning the front yard parking) or allow it for any length of time within a seasonal window.

## **Sec. 4.26 - Number of Dwellings on a Lot**

### Existing Wording

*Except in accordance with the provisions for Additional Residential Units and Group Dwellings, not more than one (1) Dwelling shall be located on a Lot.*

### Proposed Wording

***Except in accordance with this Section and unless otherwise specified in this By-law, not more than one (1) Dwelling shall be located on a Lot. More than one Dwelling on a Lot may be permitted in accordance with the following:***

- 1. The minimum lot area shall be the aggregate of the lot area requirements for the types of dwelling house located on the lot.***
- 2. Front, side and rear yard setbacks shall be in accordance with the requirements set out in the zone for each type of dwelling house that abuts the lot line for which the yard is required.***
- 3. The dwelling houses shall be arranged on the lot so that each dwelling house has private amenity areas in accordance with the required yard provisions for each type of dwelling house located on the lot; and***
- 4. All other provisions of this By-law for each of the types of dwellings houses located on the lot shall apply.***

### Rationale

At the time of the Zoning By-law review, a definition and general provisions for “Group Dwellings” was removed, however the term was not removed from all other sections of the By-law. “Group Dwellings” means a group of dwelling houses on a lot, and includes detached additional residential units, planned unit townhouses (on a single lot) or apartment buildings on a single lot. This definition is unrelated to Group Homes. The suggested revision corrects the omission, simplifies the intent and clarifies that a maximum of one residential building is permitted on a lot, unless the lot is big enough that multiple buildings can be accommodated without introducing a massing that is inappropriate in the neighbourhood and zone.

## **Sec. 4.28.6 - Barrier-Free Parking Spaces**

### Existing Wording

- 2. The minimum number of Barrier-Free Parking Spaces shall be calculated and provided for the total number of Parking Spaces on the Lot and shall not solely be based on the minimum number of Parking Spaces required. The calculation of the total minimum number of Barrier-Free Parking Spaces required shall be in accordance with the following:***
  - i. Where an even number of Barrier-Free Parking Spaces are required, an equal number of Type A and Type B Barrier-Free Parking Spaces shall be provided.***
  - j. Where an odd number of Barrier-Free Parking Spaces are required, the number of Barrier-Free Parking Spaces must be divided equally between a Type A and a Type B Barrier-Free Parking Space, while the remainder may be provided as a Type B Barrier-Free Parking Space.***

### Proposed Wording

- 2. The minimum number of Barrier-Free Parking Spaces shall be calculated and provided for the total number of Parking Spaces on the Lot and shall not solely***

*be based on the minimum number of Parking Spaces required. **The minimum number of Type A and Type B off-street spaces shall be as set out in the Accessibility for Ontarians with Disabilities Act and its associated Regulations and shall be in accordance with the following:***

- a. *Where an even number of Barrier-Free Parking Spaces are required, an equal number of Type A and Type B Barrier-Free Parking Spaces shall be provided.*
- b. *Where an odd number of Barrier-Free Parking Spaces are required, the number of Barrier-Free Parking Spaces must be divided equally between a Type A and a Type B Barrier-Free Parking Space, while the remainder may be provided as a Type B Barrier-Free Parking Space.*

#### Rationale

The Zoning By-law defines Barrier-Free (accessible) parking spaces and establishes minimum dimensions, access and signage requirements. The By-law does not define set numbers or proportions of accessible spaces required in a lot. While some Zoning By-laws establish a table, staff recommend creating a direct link to the Accessibility for Ontarians with Disabilities Act, which enshrines numbers within its associated regulations. That means that if the Act changes, it does not create an automatic inconsistency in zoning. Enshrining the AODA requirements in zoning formalizes advice that staff provide developers in response to inquiries.

#### **Sec. 4.28.8 - Driveway Width for Street Townhouses**

##### Existing Wording

###### *4.28.8 Ingress and Egress*

1. *Ingress and egress, to and from the required Parking Spaces and Lot shall be provided by means of unobstructed Driveways or passageways at least 3 m, but not more than 9 m, in width excluding curb ramps, except in a Residential Zone wherein the maximum width of all Driveways or passageways on the Lot shall be 6 m or 50% of the width of the Lot, whichever is less.*

##### Proposed Wording

1. *Ingress and egress to and from the required Parking Spaces and Lot shall be provided by means of unobstructed Driveways or passageways at least 3 m, but not more than 9 m, in width, excluding curb ramps, except in a Residential Zone wherein the maximum width of all Driveways or passageways on the Lot shall be 6 m or 50% of the width of the Lot, whichever is less. **Notwithstanding the foregoing, on a lot with a frontage of less than 6 m, the maximum driveway width shall be 3 m.***

#### Rationale

The 2022 Zoning By-law reduced the maximum driveway width on a lot from 60% of the width of the lot to 50% of the width of the lot. This creates an anomaly for street townhouse lots where the minimum frontage is 5.5 m, and a driveway cannot achieve the 3 m minimum width along with not exceeding 50% of the frontage of the lot. The proposed wording corrects that anomaly.

## Sec. 4.32 - Watercourse Setbacks

### Existing Wording

#### *4.32 Setbacks / Buffers from Watercourses, Waterbodies, and Fish Habitats*

- 1. All new development, including the Erection of Buildings and Structures and the septic system tile bed on privately serviced Lots and additions to existing structures that do not increase the horizontal building footprint, shall require a minimum setback of 30 m from the Normal High Water Mark of a Watercourse, Waterbody, or Wetland and the following shall apply: [...]*

### Proposed Wording

- 1. All new development, including the Erection of Buildings and Structures and the septic system tile bed on privately serviced Lots, **excluding additions to existing structures that do not increase the horizontal building footprint**, shall require a minimum setback of 30 m from the Normal High Water Mark of a Watercourse, Waterbody, or Wetland and the following shall apply: [...]*

### Rationale

The intent of this section, through the development of the 2022 Zoning By-law, was to require the establishment of a structural waterbody setback for new development to implement Official Plan (OP) policy while allowing as-of-right building height additions within the waterbody setback so long as they did not enlarge the horizontal building envelope. This allows for intensification without increasing the amount of impervious surface close to the water, which is the purpose of a waterbody setback. RVCA indicated they were comfortable with this approach. The intent was erroneously transcribed in the wording of the By-law, and this proposed wording corrects that intent.

## **Section 7.2.1 – Zone Standards for Semi-detached dwellings in R2 Zone**

### Existing Wording

#### Table 7-1 (e) – Minimum Interior Side Yard

*3 m on one side, with a minimum aggregate of 4.2 m for both Yards, except where a garage or carport is attached to the main Building the minimum shall be 1.2 m.*

### Proposed Wording

#### Table 7-1 (e) – Minimum Interior Side Yard

***3 m on one side except where a garage or carport is attached to the main building the minimum shall be 1.2 m, and none on the other side.***

### Rationale

A semi-detached dwelling house is defined as a building with two units, divided vertically (i.e. side by side). It can exist as a two-unit building on a single lot (with one or both sides being rented) or the lot can be divided, with each unit on one lot, with the dividing lot line being the centre wall on the building. The current “interior side yard setback” provision for a semi-detached is the same as for a single-detached and does not reflect the fact that a semi-detached unit may have a zero lot line setback on one side if the building is divided into two lots, which is often the case. The proposed wording mirrors the semi-detached interior side yard provisions in the R-3 Zone.

## **Zoning Provisions- Automobile Care**

Existing Wording – Automobile Care is listed as permitted use in R1-2, CC, M2 and M3 Zones, with a parking provision. The use is not defined in current ZBL.

Proposed Wording – Delete Automobile Care as a permitted use in CC, M2 and M3 Zones and remove the reference from the parking provision. Replace “Automobile Care” with “*Automobile Service Station, limited to a building or portion of a building where mufflers, glass, tires or other similar minor parts and items are offered for sale and installation on motor vehicles*” in the R1-2 Zone.

### Rationale

The 2022 Zoning By-law that was approved by Council had removed a previous definition for “Automobile Care” and in turn, expanded the definition of “Automobile Service Station” to include the elements of automobile care, including installation of parts. Merging of definitions simplifies the by-law. While the definition was removed, the references to Automobile Care in the other zones were not, so this change completes that process. The only zone in which “automobile care” was permitted but not “automobile service station” was the R1-2 Zone, which is a special exception zone at the end of Lorne Street. Replacing “Automobile Care” from the list of permitted uses with “Automobile Service Station” but limiting that to the previous Automobile Care allowance means that the exact nature of the permitted use does not change through this amendment.

### NEXT STEPS

Council has asked that a public meeting be scheduled where the proposed changes are formally presented and feedback is received, before Council can consider approving some or all of the proposed amendments. A municipally initiated Zoning By-law amendment would follow a similar process to an applicant-initiated application, however, notice for the public meeting would be given by newspaper posting and, on our website, rather than the more usual step of sending individual letters to residents who are close to a project.

Public feedback is invited on the proposed amendments, which can be provided to staff prior to the public meeting, or at the public meeting, which will be hosted by the Planning Advisory Committee. Following the public meeting, staff will summarize any comments that are received and will come to Council with a recommendation as to whether or not to proceed with the suggested amendments. While the amendments are being presented as a single package, Council has the ability to choose to approve some, all or none of them.

**For more information, please contact the Development Services Department**

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