



THE CORPORATION OF THE TOWN OF AMHERSTBURG

OFFICE OF DEVELOPMENT SERVICES

MISSION STATEMENT: Committed to delivering cost-effective and efficient services for the residents of the Town of Amherstburg with a view to improve and enhance their quality of life.

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Author's Phone: 519 736-5408 ext. 2145/2134	Date to Council: December 12, 2022
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To: Mayor and Members of Town Council

Subject: Housekeeping Zoning By-law Amendment 2022-105

1. RECOMMENDATION:

It is recommended that:

1. **By-law 2022-105** being a by-law to amend Zoning By-law No. 1999-52, to amend the General Provisions section of the Zoning By-law, having been read three times and finally passed and the Mayor and Clerk **BE AUTHORIZED** to sign same.

2. BACKGROUND:

Town of Amherstburg Zoning By-law 1999-52, as amended was passed by Council on November 8, 1999. The publication was consolidated through 2019, up to and including amendments of December 17, 2019. Since the intent of the Comprehensive Zoning By-law (CZBL) is to ensure that it remains up-to-date and in conformity with the Town of Amherstburg Official Plan and other provincial legislation, regular housekeeping amendments are required to deal with technical and housekeeping updates.

The Town has initiated a housekeeping by-law for an amendment to Zoning By-law 1999-52, as amended under Section 34 of the Planning Act, R.S.O. 1990, c.P. 13. The proposed amendment is general in nature and applies to various properties throughout the Town of Amherstburg. The proposed amendment has been drafted to amend the total lot coverage permitted for all accessory structures in Agricultural Zones and to bring accessible parking provisions up to the current Accessibility for Ontarians with Disabilities Act (AODA) standards.

The statutory public meeting was held on December 5, 2022. No comments or questions were raised by members of the public or Council at that meeting. The following resolutions were passed:

Moved by Councillor Courtney
Seconded by Councillor Allaire

That:

1. Comments from the public, municipal departments, agencies and Council with respect to the proposed Housekeeping Zoning By-law (File ZBA-03-22) **BE RECEIVED**; and,
2. Pending Council consideration of written and oral comments received at this public meeting, Zoning By-law 2022-105 **BE CONSIDERED** at a Regular Council meeting following this public meeting.

The Mayor put the motion.

Motion Carried

In preparing this information report for Council, planning staff have reviewed the following documents/submissions in order to provide comments to Council regarding the proposed development:

1. Relevant Legislation – Provincial Policy Statement
2. County of Essex Official Plan
3. Town of Amherstburg Official Plan
4. Comments Received as of November 23rd (Appendix “C”)

3. **DISCUSSION:**

The Town of Amherstburg has initiated a housekeeping Zoning By-law Amendment to update one provision and correct one provision in By-law 1999-52, as amended. The following is a summary of the proposed changes:

1. Section 3(1)(b) Accessory Uses Lot Coverage is hereby amended by replacing “In the Agricultural Zone the total lot coverage of all non-farm accessory use structures are permitted to a maximum of 185 square meters (1991 sq ft)” with “In the Agricultural Zone the total lot coverage of all accessory structures is permitted to a maximum of 10 percent of the lot area. In the Agricultural Zone the total lot coverage of a secondary dwelling unit is permitted to a maximum of 185 square meters (1991 sq ft). All other regulations of Secondary Dwelling Unit provisions of Section 3(3)(f) shall apply”.

Originally, the 1999 Amherstburg ZBL provided for a maximum lot coverage of accessory structures in an Agricultural Zone to a maximum of 10% of the lot area. In 2019, a zoning by-law amendment was approved to decrease the non-farm accessory structure lot coverage to a maximum of 185 square metre (1991 sq ft). Since this change there have

been several approved minor variance requests to increase this set lot coverage.

Sections 2.15 and 8.2 of the Town's Official Plan state, "Wherever a use is permitted in a land use classification, it is intended that uses, buildings, or structures normally incidental, accessory, and essential to that use are also permitted." Agricultural accessory structures are permitted in the zone with the maximum lot coverage determined by Council.

A review of zone provisions of surrounding municipalities in Essex County provides an indicator of a suitable accessory structure lot coverage. These values are provided in the table below.

Permitted Agricultural Accessory Structure Lot Coverage in Other Essex County Municipalities:

Municipality	Permitted Accessory Structure Lot Coverage
Kingsville	10%
Lakeshore	15%
LaSalle	10%
Leamington	10%
Tecumseh	10%

At this time administration is proposing to return the permitted Agricultural accessory structure lot coverage to a maximum of 10 percent of the lot area.

2. Section 3(23)(a) Parking Spaces Required General Provisions is hereby amended by deleting and replacing the subsection with the following;

"(a) PARKING SPACES REQUIRED

Except as otherwise provided herein, the owner or occupant of any lot, building or structure used or erected for any of the purposes set forth in Clause (b) and Clause (c) of this Subsection, shall provide and maintain, for the sole use of the owner, occupant or other persons entering upon or making use of the said lot, building or structure from time to time, one or more parking spaces in accordance with the provisions of this Subsection.

In addition to the parking spaces required by Section 3(23)(b) and 3(23)(c) accessible parking spaces shall be required as set forth in the following;

Types of accessible parking spaces:

- (i) Off-street parking facilities must provide the following two types of parking spaces for the use of persons with disabilities:
 - a. Type A, a wider parking space which has a minimum width of 3,400 mm and signage that identifies the space as "van accessible".
 - b. Type B, a standard parking space which has a minimum width of 2,400 mm.

Access Aisles:

- (ii) Access aisles, that is the space between parking spaces that allows persons with disabilities to get in and out of their vehicles, must be provided for all parking spaces for the use of persons with disabilities in off-street parking facilities.
- (iii) Access aisles may be shared by two parking spaces for the use of persons with disabilities in an off-street parking facility and must meet the following requirements:
 - a. They must have a minimum width of 1,500 mm.
 - b. They must extend the full length of the parking space.
 - c. They must be marked with high tonal contrast diagonal lines, which discourages parking in them, where the surface is asphalt, concrete or some other hard surface.

Minimum Number and Type of Accessible Parking Spaces:

- (iv) Off-street parking facilities must have a minimum number of parking spaces for the use of persons with disabilities, in accordance with the following requirements:
 - a. One parking space for the use of persons with disabilities, which meets the requirements of a Type A parking space, where there are 12 parking spaces or fewer.
 - b. Four per cent of the total number of parking spaces for the use of persons with disabilities, where there are between 13 and 100 parking spaces in accordance with the following ratio, rounding up to the nearest whole number:
 - i. Where an even number of parking spaces for the use of persons with disabilities are provided in accordance with the requirements of this paragraph, an equal number of parking spaces that meet the requirements of a Type A parking space and a Type B parking space must be provided.
 - ii. Where an odd number of parking spaces for the use of persons with disabilities are provided in accordance with the requirements of this paragraph, the number of parking spaces must be divided equally between parking spaces that meet the requirements of a Type A parking space and a Type B parking space, but the additional parking space, the odd-numbered space, may be a Type B parking space.
 - c. One parking space for the use of persons with disabilities and an additional three per cent of parking spaces for the use of persons

with disabilities, where there are between 101 and 200 parking spaces must be parking spaces for the use of persons with disabilities, calculated in accordance with ratios set out in subparagraphs b i and ii, rounding up to the nearest whole number.

- d. Two parking spaces for the use of persons with disabilities and an additional two per cent of parking spaces for the use of persons with disabilities, where there are between 201 and 1,000 parking spaces must be parking spaces for the use of persons with disabilities in accordance with the ratio in subparagraphs b(i) and b(ii), rounding up to the nearest whole number.
- e. Eleven parking spaces for the use of persons with disabilities and an additional one per cent of parking spaces for the use of persons with disabilities, where more than 1,000 parking spaces are provided must be parking spaces for the use of persons with disabilities in accordance with the ratio in subparagraphs b(i) and b(ii), rounding up to the nearest whole number.”

The deletion of the existing barrier free parking provisions and the addition of new provisions will bring the CZBL into compliance with the Integrated Accessibility Standards Regulation (O.Reg. 191/11) under the Accessibility for Ontarians with Disabilities Act (AODA).

The proposed amendments to the Zoning By-law are in conformity with the policies of the Provincial Policy Statement, County of Essex Official Plan, Town of Amherstburg Official Plan and the Ontario Regulations under the AODA.

Provincial Policy Statement

The Provincial Policy Statement was issued under Section 3 of the Planning Act and came into effect on May 1, 2020. The Provincial Policy Statement provides policy direction on matters of provincial interest related to land use planning and development. As a key part of Ontario’s policy-led planning system, the Provincial Policy Statement sets the policy foundation for regulating the development and use of land. It also supports the provincial goal to enhance the quality of life for all Ontarians.

The Provincial Policy Statement provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. The Provincial Policy Statement supports improved land use planning and management, which contributes to a more effective and efficient land use planning system.

When reviewing a planning application to determine if the Zoning By-law Amendment (ZBA) makes sound planning, it is imperative that the proposed amendment is consistent with the Provincial Policy Statements (PPS).

The Provincial Policy Statement provides policy direction for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. The PPS recognizes that the wise management of

development may involve directing, promoting, or sustaining growth. Land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns.

The following policy excerpts from the PPS are particularly applicable to the subject applications:

1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns

1.1.1 Healthy, liveable and safe communities are sustained by:

- a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;*
- b) accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs;*
- c) avoiding development and land use patterns which may cause environmental or public health and safety concerns;*
- d) avoiding development and land use patterns that would prevent the efficient expansion of settlement areas in those areas which are adjacent or close to settlement areas;*
- e) promoting the integration of land use planning, growth management, transit-supportive development, intensification and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs;*
- f) improving accessibility for persons with disabilities and older persons by addressing land use barriers which restrict their full participation in society;*
- g) ensuring that necessary infrastructure and public service facilities are or will be available to meet current and projected needs;*
- h) promoting development and land use patterns that conserve biodiversity; and*
- i) preparing for the regional and local impacts of a changing climate.*

1.5 Public Spaces, Recreation, Parks, Trails and Open Space

1.5.1 Healthy, active communities should be promoted by:

- a) planning public streets, spaces and facilities to be safe, meet the needs of pedestrians, foster social interaction and facilitate active transportation and community connectivity;*
- b) planning and providing for a full range and equitable distribution of publicly-accessible built and natural settings for recreation, including facilities, parklands, public spaces, open space areas, trails and linkages, and, where practical, water-based resources;*
- c) providing opportunities for public access to shorelines; and*
- d) recognizing provincial parks, conservation reserves, and other protected areas, and minimizing negative impacts on these areas.*

2.3 Agriculture

2.3.1 Prime agricultural areas shall be protected for long-term use for agriculture. Prime agricultural areas are areas where prime agricultural lands predominate. Specialty crop areas shall be given the highest priority for protection, followed by Canada Land Inventory Class 1, 2, and 3 lands, and any associated Class 4 through 7 lands within the prime agricultural area, in this order of priority.

2.3.2 Planning authorities shall designate prime agricultural areas and specialty crop areas in accordance with guidelines developed by the Province, as amended from time to time.

Planning authorities are encouraged to use an agricultural system approach to maintain and enhance the geographic continuity of the agricultural land base and the functional and economic connections to the agri-food network.

2.3.3 Permitted Uses

2.3.3.1 In prime agricultural areas, permitted uses and activities are: agricultural uses, agriculture-related uses and on-farm diversified uses.

Proposed agriculture-related uses and on-farm diversified uses shall be compatible with, and shall not hinder, surrounding agricultural operations. Criteria for these uses may be based on guidelines developed by the Province or municipal approaches, as set out in municipal planning documents, which achieve the same objectives.

2.3.3.2 In prime agricultural areas, all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards.

2.3.3.3 New land uses in prime agricultural areas, including the creation of lots and new or expanding livestock facilities, shall comply with the minimum distance separation formulae.

County of Essex Official Plan

The County of Essex Official Plan (COP) was adopted on February 19, 2014 and was approved by the province on April 28, 2015. All lower tier Official Plans or amendments must comply with the policies of the upper tier Official Plan (County). The applicable County policies that should be considered when assessing the merits of the subject Zoning By-law Amendment include:

Section 1.5 Goals for a Healthy County, specifically section 1.5(s)

(s) To support the creation of interesting and accessible public places to generate activity and vitality and attract people and business to Essex County communities.

3.3.3.1 Permitted Uses

The following uses are permitted within the “Agricultural” designation subject to the policies of this section:

a) Agricultural Uses, Secondary Uses and Agriculture-Related Uses.

b) Forestry, conservation uses, wildlife and fisheries management.

c) Watershed management and flood and erosion control projects carried out or supervised by a public agency.

d) A single detached dwelling in conjunction with an agricultural use, on an existing lot of record, and on a newly created lot approved as a residence surplus to a farming operation.

e) Accessory farm accommodation, in accordance with Section 3.3.3.5 of this Plan.

f) Passive recreational uses such as pedestrian trails.

Town of Amherstburg Official Plan

The Town of Amherstburg Official Plan (OP) was adopted by Council on April 14, 2009 (By-law No. 2009-30) and approved by the County of Essex on July 15, 2009. The office consolidation version is dated April 10, 2017.

The OP implements the COP and PPS and establishes a policy framework to guide land use planning decisions related to development and the provision of infrastructure and community services throughout the Town.

The proposed Zoning By-law Amendment applies to the entire Town and therefore, the Official Plan as a whole. Specifically, the Agricultural Land Uses policies and the Barrier Free Access policies support the proposed amendment.

3.2 Agricultural Land Uses

3.2.1 Goals

The following goals are established for the Agricultural area:

- (1) To preserve and enhance good agricultural land for agricultural purposes;*
- (2) To allow farm operators sufficient flexibility to engage in a wide range of agricultural activities;*
- (3) To restrict the type and amount of non-farm development in the agricultural area;*
- (4) To encourage the retention and enhancement of existing windrows, hedgerows, and small woodlots in order to protect the high quality of landscape, provide habitat for wildlife, mitigate wind erosion and protect surface and groundwater resources; and*
- (5) To direct non-agricultural development to Settlement Areas and to control the development of agriculturally related commercial and agriculturally related industrial uses.*

2.17 BARRIER FREE ACCESS

It shall be a policy of this Plan that, in reviewing development applications and when the Town is undertaking public works, serious consideration be given to the creation of a barrier free environment. Encouragement will also be given to design standards that create a safe pedestrian environment.

Barrier free design will be applied to intersection, curb cuts, pedestrian activated signals, public buildings, all new institutional, recreational, commercial, industrial, or multi-unit structures.

The Town will explore ways to eliminate barriers to wheelchairs and mobility aids on public lands and buildings. The Town will encourage developers to provide barrier free developments.

Proposals for the installation of barrier free access involving heritage structures must demonstrate that the alteration will not adversely impact the heritage attributes. The Town's Zoning By-law will establish standards for the provision of parking spaces for persons with disabilities where the magnitude of the development warrants the provision.

In summary, the amendment proposes two changes to the CBZL. The first change will adjust accessory use lot coverage in the Agricultural Zone. The second change will bring the CBZL up to date with current accessibility standards in the Ontario Regulations under the AODA. The proposed housekeeping amendment is consistent with the Provincial Policy Statement. The proposed housekeeping amendment is in conformity with the County of Essex Official Plan and the Town of Amherstburg Official Plan. The change to the lot coverage for accessory structures in the Agricultural Zone will allow land owners and farmers to build appropriately sized structures to support their farming businesses and residential needs. All structures will be required to comply with the Ontario Building Code and all other provisions of the Zoning By-law. The proposed amendment to update the accessible parking provisions will allow for appropriate accessible access at all future businesses and multiple residential buildings within the Town.

4. RISK ANALYSIS:

The recommendation presents little to no risk to the municipality.

5. FINANCIAL MATTERS:

No application fees were collected on this file as it is a Town driven housekeeping zoning by-law amendment. Should the decision be appealed to the Ontario Land Tribunal then the Town will incur costs.

6. CONSULTATIONS:

The Notice of Public Meeting was published in the local newspaper and circulated to the required agencies, property owners and municipal departments in accordance with the requirements of the *Planning Act*, R.S.O. 1990, c.P. 13 and associated regulations.

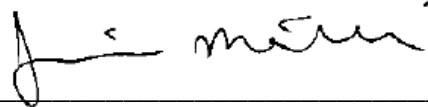
No further consultation is required at this time.

7. CONCLUSION:

It is the opinion of administration that the housekeeping Zoning By-law amendment, conforms with the policies of the Official Plan, and brings the Zoning By-law into compliance with the Integrated Accessibility Standards Regulation (O.Reg. 191/11) under the Accessibility for Ontarians with Disabilities Act (AODA). Therefore, it is recommended that Council adopt Zoning By-law Amendment number 2022-105.



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Report Approval Details

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This report and all of its attachments were approved and signed as outlined below:



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