

Executive Summary: Zoning By-law Review & Update

Issue:

In 2007, when the *Capital City Municipal Plan* was adopted it was intended that *Zoning By-law Z-2* would undergo a comprehensive review in order to align the provisions and standards of the zoning by-law with the objectives and policies of the new *Municipal Plan*. A zoning by-law review is a process intended to ensure that the regulations governing planning and development activity within the City will effectively implement the policies of the *Municipal Plan*.

Whereas the *Municipal Plan* is a policy document intended as a long-term guide to future land use within the City, the *Zoning By-law* sets those policies into action by prescribing land uses permitted in each zone and provides specific regulations for building location, size, height, parking, and landscaped areas. More specifically, the review and update of the *By-law* has provided Staff with an opportunity to analyze existing provisions in the context of the objectives and policies of the recently updated *Municipal Plan* by incorporating a variety of best practices in a land use planning context with respect to housing density; landscaping; parking requirements; and, scale, type and location of commercial uses, among others, while making the *By-law* more user friendly for all users including property owners, the business community, City Council, and Staff.

Background:

The *Capital City Municipal Plan* was adopted by City Council on January 8, 2007 and approved by the Minister of Environment on February 28, 2007. Although adopted in 1995, the current zoning by-law has undergone periodic updates. The most recent update occurred on March 28, 2011 with Council's adoption of amendments to Section 7, Signage. The re-write of the signage regulations commenced the first phase of the zoning by-law review. Concurrent to the sign by-law review, Staff had initiated a cover to cover review of the *Zoning By-law* by compiling relevant background data to support a comprehensive update including:

- an **alignment of existing zoning provisions with Municipal policy documents** including the *Municipal Plan*, *Trails and Bikeways Master Plan*, *Recreation Master Plan* and *Transportation Plan* to ensure the proposed By-law accurately and sufficiently supports the policies and objectives of these guiding documents;
- an **assessment of best practices and industry standards as well as trends** reflected in Applications for Development (variance, subdivision, zone amendment/rezoning) submitted to the Planning Advisory Committee and City Council since 2000;

- An **analysis of City and regional demographic trends and growth projections**;
- A **comparison of zoning provisions in other municipalities** in areas including density, parking, landscaping, home occupations, and in-law/garden suites, with particular consideration given to zoning by-laws that have recently been reviewed and updated.

Special attention has been given to incorporating current best practices, within a Fredericton context, relating to parking and landscaping requirements, residential density, mixed use, and location and scale of commercial uses.

Public consultation:

While much of the background assessment was completed by Staff in order to inform the public review process, the review and update of the zoning by-law has been an open, public process with ample opportunity for public participation including key stakeholder meetings, public opinion surveys and public meetings with presentations of the draft to be held in November and December 2012.

The public consultation process began with a series of public opinion surveys conducted online and at several malls to assess public opinion on a variety of pertinent topics including:

- backyard hens
- home occupations
- in-law or garden suites
- residential density and in-fill
- mixed use / complete communities
- building form and design
- senior housing / ageing in place
- landscaping / amenity space

Results of the public opinion surveys helped to inform the direction of the by-law by providing a sense of public support and/or tolerance for these timely and relevant land use issues. Public input was also reflected in the trends identified by an assessment of the nature and types of requests submitted through Applications for Development during the past ten years.

The next phase of public consultation involved presentations to key stakeholder groups representing the business and industry, affordable housing, seniors, real estate, and home builders sectors. The stakeholder presentations provided an opportunity to make key stakeholders aware of the by-law review process and to gather input with respect to particular sections of the by-law requiring detailed review and consideration.

Staff also received support throughout the writing of the draft from the Zoning By-law Steering Review Committee which met regularly during spring and fall of 2012. The Steering Review Committee was comprised of members of the public, two Planning

Advisory Committee members and two City Councillors who volunteered their time to provide input on the direction of the draft and to review each section of the draft. The role of the Steering Review Committee was crucial to ensuring the proposed zoning by-law comprehensively considers the goals for all demographics including youth, seniors, affordable housing, among others, in a land use planning context as reflected in the policies of the *Municipal Plan*.

To further ensure property owners are aware of the proposed zoning by-law amendments, all residents were notified, concurrent with the release of the draft zoning by-law, of pending by-law changes through a bulk mailing to all properties in the City encouraging residents and property owners to visit the City's website for more information and to identify potential changes to individual properties. The Zone Fredericton section of the City's website was designed to include interactive zoning maps showing current and proposed changes for individual properties in a manner that is both accessible and user-friendly.

And finally, public input on the draft will be obtained during public open house meetings to be held in November and December of 2012 and through the submission of comments online or in writing to the Community Planning Division following release of the draft in mid-November. Public comments submitted on the draft will be considered and the draft revised accordingly prior to the submission of the final draft to the Planning Advisory Committee and City Council for review and adoption early in the new year.

Discussion:

Ultimately, the goal of the by-law review is to ensure the *Zoning By-law* continues to manage growth and control land use towards achieving the compatibility of land uses, while providing appropriate opportunities for additional density and infill development in a manner that is both responsible and sensible. To achieve this, the primary purposes for a review of the Zoning By-law have included:

- *To modernize the way the City manages growth by incorporating current land use planning methods and principles in to the zoning by-law;*
- *To meet the City's changing social, economic and environmental needs allowing for a diversity of housing types that are accessible to essential services;*
- *To make the by-law more user-friendly for all users including land owners, the business community, City Council, and Staff.*

In order for the new zoning by-law to fully achieve these objectives, the following goals were established for the review process:

- *To create complete communities through balanced density and mixed use*
- *To maintain the stability of established neighbourhoods*
- *To respond to ageing demographic trends*

- *To attract responsible growth within the City through sensible infill*
- *To raise the bar on building design and landscaping standards*
- *To ensure consistency with other municipal policies related to urban development*
- *To fix and update the bylaw by consolidating zones, adding flexibility of uses, and introducing contextual zoning standards*
- *To simplify the approval of good proposals that meet these goals*
- *To update the by-law and make it user-friendly for everyone*

To achieve these goals, particular consideration was given to best practices, local trends, demographic needs, and municipal policies on a variety of land use issues including affordable housing, density, mixed use, home occupations, parking and landscaping, senior housing alternatives, building form/design, and commercial scale, type and location. The following is a brief summary of the most significant by-law updates proposed to achieve the goals outlined above.

Housing

Creating Opportunities for Residential Density and Infill Development

In-fill development plays a critical role in creating more compact and sustainable communities. To effectively implement *Municipal Plan* policies with respect to density the zoning by-law review has included an assessment of potential opportunities for in-fill development and/or density throughout the City to allow for the development or redevelopment of land that is currently underused or vacant. Specifically, staff conducted a property by property review of the existing zoning maps, and identified opportunities for in-fill and additional residential density within existing neighbourhoods.

From Staff's perspective, in-fill development allows for a range of housing types to be provided within a single neighbourhood. Providing opportunities for in-fill development, will help to ensure that the variety of housing types and housing alternative are available to serve the needs of all members of the community and to support the creation of safe, supportive and complete communities.

Garden and In-law Suites

A "garden suite" is a portable detached housing unit which is designed to be placed in the rear yard of an existing single family home. "In-law suites" also function as a principal dwelling for an ageing parent but are contained within the principal dwelling, typically on the main floor rather than in the basement and often as an addition to the dwelling. Many ageing parents cannot manage the stairs to access a basement unit; therefore, the garden suite (detached) and in-law suite (attached) present viable solutions.

While policies are currently in place to support garden and in-law suites, they are not currently included in the zoning by-law. Therefore, Staff are recommending that the current policies for garden and in-law suites be incorporated into the by-law. Where permitted, garden and in-law suites will be subject to a zone amendment review to ensure they comply with applicable provisions and are removed when no longer required. Staff have rarely receive complaints in regard to approved garden and in-law suites and feel this type of housing provides an essential alternative to assist family members with caring for ageing parents.

Mixed Use

The revised zoning by-law has incorporated greater flexibility for allowing and sometimes requiring mixed use development in appropriate locations. Mixed-use is a development type that allows for a combination of uses on a single property. For example, mixed use development is proposed along much of Cliffe Street and Main Street on the north side and around the Railway Lands and College Hill Road on the south side, among other areas. The intent is to allow a variety of commercial uses on the ground floor with office, residential, or a combination of the two on the remaining floors.

Affordable Housing

Zoning by-laws do not regulate tenure, nor do zoning by-laws regulate the cost of housing. Notwithstanding, zoning by-laws can consider the provision of affordable housing and as part of the by-law review process, Staff have met with representatives of the affordable housing stakeholder group and reviewed zoning provisions of other communities and have identified the following changes to the zoning by-law in support of affordable housing:

- Diversity of Housing Types/Locations: The zoning by-law is proposing increased opportunities for in-fill, higher density residential, and mixed use development. These planning practices provide greater flexibility of housing choice with respect to type and location. The proposed by-law also better directs additional density toward commercial corridors and along transit routes to ensure residential housing will be available in close proximity to essential services and employment opportunities.
- Parking Reductions: Staff are recommending a number of parking reductions that will assist with reducing the overall cost of development thereby making individual housing units more affordable:
 1. A reduction of up to 40 percent of the required parking for affordable housing developments that are carried out in conjunction with the Provincial affordable housing programs. However, to ensure available parking can be provided if the affordable units go to market rate in the future, the site plan for

a development implementing the parking reduction would have to demonstrate that the additional parking could be provided on the site, if required.

2. That the current provision which exempts parking for the first four dwelling units when they are part of a commercial development in the Central Business District (i.e. mixed use) be amended such that the first eight units are exempt from the parking requirements. This reduction would reduce development costs and encourage the provision of affordable units in the City Centre.
 3. That the minimum parking requirement for assisted living housing opportunities in the downtown be reduced from 0.5 spaces per unit to 0.25 spaces per unit. The number of essential services and amenities available in the downtown reduce the need for seniors to drive to access those services and this reduction will contribute to better use of land within the urban core.
 4. That parking requirements be reduced where residential developments are located within close proximity to a transit stop (10 percent reduction) and where residential uses are combined with commercial uses to create mixed use developments (15 percent reduction).
 5. Parking standards for apartment buildings in proposed parking district "Area 1" be reduced by approximately 20 to 30 percent to allow more affordable housing to be developed in close proximity to existing services.
- Smaller Lot Sizes: The proposed by-law will continue to include a zone with a smaller lot size requirement, specifically the Residential One Narrow Lot Zone (R-1N), requiring a minimum frontage of 11.5 metres and area of 345 m². These lot sizes allow for the creation of more lots with potentially smaller houses, thus providing a greater variety of affordable housing choice with respect to type and location.
 - Density Bonus: Perhaps the most significant provision to influence the availability of affordable housing is a new provision that will allow up to 20% more additional dwelling units on a property where affordable units are incorporated into the proposed development. In these cases the standard per-unit lot area requirement is reduced for the affordable units to allow the additional dwelling units, provided the overall site plan can satisfy all other zone standards.

Staff would note that the zoning by-law is just one of several resources available for supporting the provision of affordable housing. The City's Affordable Housing Committee is also tasked with implementing the policies of the *Municipal Plan* and will work closely with this stakeholder group to develop and carry-out an affordable housing strategy for the City. Should further opportunities be identified for inclusion in the zoning by-law as part of that process, further amendments may ensue.

Commercial Uses – Scale, Type and Location

Home Occupations

The current zoning by-law permits home occupations as-of-right provided they are located in single detached dwellings and comply with a number of conditions. During the past ten years a number of Applications for Development have permitted beauty salons and medical offices for certain counselling services, each operated by one practitioner, as home occupations. Based on the frequency of these requests and the lack of complaints once these uses have established in residential neighbourhoods, Staff feel the home occupation provisions should be amended to provide greater flexibility to permit these types of uses as home occupations as-of-right provided the uses are limited to a maximum of one chair and one practitioner. Notwithstanding, the proposed by-law will continue to prohibit medical offices or clinics, excepting counselling services operated by one practitioner, from operating as home occupations.

Drive-Thru Facilities

To help address traffic problems created by certain drive-thru businesses, three key changes are proposed.

- A new minimum lot area of .25 hectares will be required for any drive-thru facility to accommodate vehicle parking, circulation and queuing space requirements.
- The minimum requirement of queuing spaces for drive-thru uses will be increased from 6 to 12 excepting drive-thrus serving financial institutions which have smaller peak demands (they require 4 queuing spaces). The by-law currently requires all drive-thru uses to provide 6 queuing spaces and Staff feel that the doubling of the current standard is appropriate given that this is reflective of current practices in other communities.
- Staff are also proposing a by-law provision that would permit applicants to provide a queuing study where it is anticipated that the number of required queuing spaces will be lower or higher than 12 given the nature of the use. This approach would provide flexibility to consider and sufficiently meet the queuing needs of individual businesses because it is recognized that queuing needs of all uses are not the same.

Additional drive-thru provisions are also proposed to ensure vehicle oriented land uses are established in a scale and manner that is appropriate for a subject property and sensitive to the surrounding land uses. Specifically, standards were included for screening, noise buffers, pedestrian access, and site circulation.

Child Care Centres

Current zoning allows for the provision of a variety of daycare facilities in residential, commercial and industrial areas throughout the City. Staff have reviewed the current zoning provisions and are suggesting several changes to the various daycare types. First, references to the different types of daycares are proposed to be updated as follows to bring the terminology in line with current trends:

Limited Daycare Centre	→	Child Care Centre – Small	(max. 6 children)
Neighbourhood Daycare Centre	→	Child Care Centre – Medium	(max. 15 children)
Commercial Daycare Centre	→	Child Care Centre – Large	(max. 60 children)

Child Care Centre - Small

Staff are recommending that the minimum number of children permitted in a “child care centre – small” be brought in line with Provincial regulations. The NB Department of Education and Early Childhood Development currently permits small daycares to have a maximum of 6 children or 9 after-school children whereas current zoning permits a maximum of four. Provincial regulations stipulate that this includes the operators' own children whereas the zoning by-law historically permitted a maximum of four children in addition to the operators own children. Therefore, Staff feel the proposed change is minor in nature and not likely to create adverse impacts where small child care centres exists in residential neighbourhoods.

Child Care Centre – Medium (max. 15 children)

Staff are recommending that: 1. the separation distance between childhood and neighbourhood daycares be reduced from 400 to 200 metres; 2. the provision prohibiting neighbourhood daycares on corner lots be removed; and, 3. a provision be added requiring that outdoor play areas be surrounded by a six foot high opaque wooden fence along common property lines. Staff feel that these changes are relatively minor in nature and will help to facilitate potential opportunities for medium sized, or neighbourhood-scale, child care centres.

Child Care Centre – Large (max. 60 children)

Staff are recommending that zoning provisions permit large child care centres to be located on the ground floor of high density residential and mixed use buildings. Permitting large child care centres within high density areas of residential neighbourhoods will support the goals of creating compete communities and stabilizing neighbourhoods by enabling children to attend daycare in their own neighbourhoods.

Staff feel that continuing to allow large daycare facilities in commercial and business industrial areas is appropriate, particularly when these uses are located on the periphery of a residential neighbourhood. Notwithstanding, daycare

facilities are not compatible with typical industrial uses, and therefore the new by-law has limited large daycare facilities to business industrial areas.

Office Use

Retaining a healthy predominance of office space in the urban core is critical to the success of a City's downtown. While it is certainly reasonable to permit some office uses in areas outside the downtown, it is critical that the zoning by-law establish appropriate limits for office uses with respect to scale and location where permitted outside the City Centre. Therefore, Staff are recommending the following:

- continue to permit unlimited office use in the City Centre;
- limit office use in industrial zones to offices that are ancillary in nature to the industrial use;
- create a new Office Commercial Zone, to replace the current Non-Retail Commercial Zone, which will permit office use in strategic locations outside the City Centre;
- allow for mixed use zones that require a mix of residential and other uses, including office use;
- establish floor area limits for offices uses in zones outside the City Centre

The proposed revisions to the by-law will allow for an appropriate mix of office uses in areas outside the downtown while continuing to direct the majority of office use towards the City Centre. Continuing to encourage the predominance of office use within the City to be located in the downtown will help to ensure a desirable vibrancy of the urban core continues to be realized.

Parking

Staff have carefully reviewed and assessed current parking requirements to ensure that the number of parking stalls required is appropriate for the scale, type and location of a particular land use. The proposed changes outlined below are reflective of local parking demand and best management practices and were established through consultation with local developers and an assessment of current practices in other communities.

Parking Requirements and Districts

Staff are proposing the induction of parking districts within the City:

- Central Business District
- Area 1: Greater Town Plat, Main Street, and Union Street areas
- Area 2: All other areas of the City

The creation of these districts is based on the current potential for using alternative modes of transportation, namely walking, biking and public transit. More specifically, the district boundaries were defined based on the feasibility of these transportation modes to provide a practical alternative for accessing employment opportunities and essential services.

Central Business District

In an effort to support greater density in the City Centre, Staff are recommending several parking reductions. First, it is recommended that a minimum of 0.5 spaces per unit and a maximum of 1.0 space per unit be required for apartment buildings rather than one space per unit as is currently required. Permitting a range will allow developers to provide parking in accordance with market demand, while applying a maximum will ensure more efficient land use by limiting the amount of parking that can be provided for residential use in the downtown. Second, it is recommended that parking for developments serving the senior population in the downtown be reduced from 0.5 spaces per unit to 0.25 spaces per unit. Third, it is recommended that no parking spaces be required for the first eight units where dwelling units are provided in conjunction with commercial use(s) in the Central Business District rather than the first four units as the current provision allows.

Area 1

Second, the areas defined by the boundaries of "Area 1" including the Town Plat, Sunshine Gardens and the St. Anne Pointe Heritage Preservation Area on the south side and Main Street and Union Street on the north side, are considered to be areas well served or accessible by alternative modes of transportation including biking, walking and transit. The proximity of these areas to services and amenities including schools, retail goods and employment centres, combined with the overall density, support the proposal to reduced parking stall requirements. Therefore, Staff are recommending that the number of spaces required for two and three bedroom units in apartment buildings be reduced by 20 to 30 percent. For example, the number of spaces required for a two or more bedroom unit in the Town Plat would be reduced from 1.25 spaces per unit to 1.0 space per unit. While this reduction may seem minor, when applied to a 40 unit apartment building the current standard would require 50 parking spaces while the revised provision would require 40 spaces, or a reduction of 20 percent. Overall the proposed reductions will allow for the more efficient use of land with potential for increased density and amenity space.

Area 2

The area identified as "Area 2" is functionally more suburban in nature with respect to parking needs. Staff have carefully reviewed the standards for all residential uses and discussed the current standards, particularly for apartment buildings, with local developers and have determined that the current

requirements are meeting parking needs. Therefore no changes are recommended at this time.

Staff are recommending reductions for non-residential uses including a fifty percent reduction from the current requirement for office use and more clearly defined standards for retail uses based on floor area and single versus multi-use sites. These changes are based on an "average daily demand" rather than "peak demand" approach, as well as comparisons with other communities, and will help to ensure the efficient use of land. In addition to the above, parking standards are proposed for a number of uses for which clearly defined standards are not currently provided including veterinary clinics; convenience stores; fitness centres; vehicle sales, rental and service; and, self-storage facilities.

Parking Reductions

In addition to the above recommendations, Staff are proposing that *one* of the following parking reductions be applied to a property where:

- residential uses are located in close proximity to a transit stops (10 percent)
- developments contain a mix of residential / non-residential uses (15 percent)
- buildings contain affordable housing units (up to 40 percent)

The above reductions support *Municipal Plan* policies and objectives that promote compact development by recognizing the benefits of mixed use and transit-oriented development and will help to facilitate affordable housing development.

Bicycle Parking Requirements

Staff are proposing minimum bicycle parking standards for non-residential uses and residential uses containing ten or more units. These requirements will facilitate and support the provision of alternative transportation modes and are based on bicycle parking standards from other municipalities. The proposed bicycle parking provisions would require 0.2 spaces per dwelling unit for residential uses or bicycle parking spaces at a rate of 7 percent of the required vehicular parking spaces for non-residential uses. As a comparison, this would result in the provision of 8 bicycle parking stalls for a 40-unit apartment building or 5 spaces for a typical neighbourhood-scale shopping centre. The required bicycle parking spaces would be required to be provided on securely anchored bike racks or storage lockers to be accessible year-round.

Cash In-Lieu

Given the increased costs for construction since the \$3,500 cash-in-lieu fee was established with the adoption of *Zoning By-law Z-2* in 1995, it is felt by Staff that a careful review of the cash-in-lieu fee was necessary as part of the overall zoning by-law update.

Staff have compared the current \$3,500 fee to the per stall fee required by other municipalities. Whereas the cost per stall for constructing a new parking structure today can range from \$20,000 per stall for an economy garage to more than \$50,000 per stall for a garage with added amenities such as facade treatments or ground floor retail space, the cost per stall for cash-in-lieu ranged from \$300 to \$50,000. Based on these comparisons, Staff feel that increasing the current fee from \$3,500 to \$7,000 per stall would be appropriate. A 50% increase in the fee is reasonable when considering that the fee, adopted at a rate of \$2,500 in 1973, has not been increased from the current rate of \$3,500 since 1991. During the past 21 years construction costs have increased significantly. According to the 2002 Downtown Parking Strategy Study the estimated per stall cost for constructing a garage at that time was \$10,500. Today's estimated \$20,000 cost for an economy garage therefore reflects a 48% increase in the average cost over ten years. This figure provides further indication that a 50% increase in the per stall fee of from \$3,500 to \$7,000 is a reasonable rate that will encourage developers to implement the cash-in-lieu option, thereby limiting the amount of surface parking while maximizing land use in the downtown.

Site Design

Building Form & Design

Requirements for building form and design have been added where appropriate to ensure new development is compatible with the surrounding area including:

Building Design

- In the City Centre, where a building is proposed to be more than four storeys in height, the building must have a minimum step-back depth of 1.5 metres on the third storey level of any facade facing a public street.
- Specific architectural features will be required to accentuate building entrances and to stipulate that wherever possible building entrances should be oriented toward the street.
- Limits on the number of townhouse units that can be provided before a jog in the wall will be required and similar provisions for apartment buildings added to ensure dwelling units are clearly defined and to prevent long, blank walls particularly where they front on a public street.
- That the design and finish materials of the exterior wall containing the main public entrance be applied to any wall that faces a public street and that a walkway be provided linking the building entrance to the public sidewalk. Where required these standards will ensure that primary buildings are aesthetically sensitive to and oriented with the streetscape.

Contextual Standards

- A height requirement has been added in some zones that allow higher buildings such that the maximum height is established at the setback from the property line and increases proportionately to a prescribed maximum for additional floors. A tiered design of this manner will ensure the overall building height does not overwhelm and is sensitive to lower buildings on surrounding properties while allowing for in-fill and density.
- In addition to the above height provision greater yard setbacks will be required where larger buildings abut existing low density residential uses to allow additional density in a manner that does not overwhelm neighbouring properties.
- Reduced front yard setback provisions have been added where appropriate to better allow new construction align with an existing streetscape.
- To minimize holes in the streetscape provisions have been added requiring a minimum wall length within the minimum and maximum front yard setback in some zones.

Landscaping and Parking Lot Design

To ensure development occurs in a manner that is sensitive to its surroundings, Staff are recommending improved landscaping and parking lot design standards including:

- Requirements for screening of mechanical equipment.
- Improved definitions to clarify landscaping requirements including "soft landscaped area" and "hard landscaped area"
- Revised amenity space requirements to ensure amenity space is provided in a contiguous and/or usable manner
- Minimum tree and shrub planting requirements, including type, quantity and dimensions, within landscaped areas
- Standards for the preservation of mature trees where feasible
- Requirement for adequate provision of irrigation and maintenance of landscaped areas
- Improved screening requirements for parking lots and provisions for landscaped islands within large parking lots
- Minimum screening requirements where commercial uses abut residential uses

Reformatting and Organization

The overall design and layout of the zoning by-law has been significantly improved to ensure this technical document is user-friendly and understandable. Some of these changes include:

- The addition of purpose statements for each zone to clarify the intent of the zone with respect to the nature, type, location, and scale of permitted uses.
- A reduction in the number of zones to remove duplicate provisions where applicable.
- Redefining of zones to ensure appropriate application of uses to achieve the intended objectives.
- Increased use of tables and illustrations to ensure improved readability.
- Enhanced list of definitions to ensure all permitted uses are clearly defined and identification of defined words throughout the document for easy reference.
- Clearer organization of general rules, rules specific to each land use category, and zone specific provisions and standards.