

Staff Report



Development Services Department

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REPORT TO: Planning and Strategic Initiatives Committee

DATE OF MEETING: January 6, 2025

SUBMITTED BY: Rosa Bustamante, Director of Planning and Housing Policy, 519-783-8929

PREPARED BY: Katie Anderl, Project Manager, 519-783-8926
Tim Seyler, Senior Planner, 519-783-8920

WARD(S) INVOLVED: All

DATE OF REPORT: December 4, 2024

REPORT NO.: DSD-2025-003

SUBJECT: Annual Zoning By-law Update

RECOMMENDATION:

That City-initiated amendment ZBA24/025/K/KA (Annual Zoning By-law Update) to Zoning By-law 85-1, be approved in the form shown in the 'Proposed By-law' attached to Report DSD-2025-003 as Appendix "A"; and,

That City-initiated amendment ZBA24/025/K/KA (Annual Zoning By-law Update) to Zoning By-law 2019-051, be approved in the form shown in the 'Proposed By-law' attached to Report DSD-2025-003 as Appendix "B"; and further,

That a new Legal Services Administrator FTE position be approved to support zoning review and the required legal administration of securing planning approvals to support the timely review of development applications in accordance with the timeframes prescribed by Provincial legislation.

REPORT HIGHLIGHTS:

- The purpose of this report is to provide a planning recommendation on minor and technical changes to Zoning By-law 85-1 and 2019-051 as part of an annual review and update.
- Financial implications of this report relate to a request to add one full time employee (FTE) to the Legal Division to adequately and effectively resource the review of development applications within the prescribed timeframes.
- Community engagement included posting preliminary notice of the Annual Zoning By-law Update and together with draft regulations on City's website in November 2024. Further, notice of the statutory public meeting was published in the Record newspaper on December 13, 2024.
- This report supports the delivery of core services.

*** This information is available in accessible formats upon request. ***
Please call 519-741-2345 or TTY 1-866-969-9994 for assistance.

BACKGROUND:

Amendments to Zoning By-laws 85-1 and 2019-051 are proposed to improve administration and provide clarification in certain areas of the By-laws. Several minor changes have been identified through the daily use of the By-laws by various City staff which form the basis for the update. These changes are minor, administrative and technical and do not impact the overall intent of the Zoning By-laws.

REPORT:

The City's Zoning By-laws are regulatory tools that implement the objectives and policies of the Official Plan. The Zoning By-laws contain provisions that regulate the use, size, height, density and location of buildings on lands within the city along with other matters such as parking. The proposed amendments will enable staff, the community, and development industry to use and interpret regulations in the Zoning By-laws with more consistency.

Planning Act, R.S.O. 1990, c. P.13 25

Section 34(1) of the Planning Act provides authority for Council of the City of Kitchener to pass a Zoning By-law. Section 34(10) permits the Council of the City of Kitchener to amend an approved zoning by-law. Further, O. Reg 462/24 came into effect on November 20, 2024, and provided further regulation for lots with additional dwelling units. The proposed amendments incorporate the updated regulations.

Provincial Planning Statement (2024)

Section 6.1.6 of the PPS states that planning authorities shall keep their zoning and development permit by-laws up to date with their official plans and the PPS by establishing permitted uses, minimum densities, heights, and other development standards to accommodate growth and development. The proposed amendments are composed of minor changes to the By-law and staff is of the opinion that the regulations are consistent with the Provincial Planning Statement.

Region of Waterloo Official Plan

As of January 1, 2025 the planning responsibilities of the Regional Municipality of Waterloo will transition to lower-tier municipalities. Policies of the Regional Official Plan will continue to be implemented by the City of Kitchener, as applicable, until such time as they are incorporated into the City's Official Plan. Regional Official Plan policy 10.E.7 requires Area Municipalities, including the City of Kitchener, to bring zoning bylaws into conformity with the policies of the Regional Official Plan. The amendments proposed to Zoning By-laws 85-1 and 2019-051 are minor and technical and not meant to be a full conformity exercise.

City of Kitchener Official Plan

In accordance with Policy 17.E.12.1, the City's Zoning By-laws will be used to regulate the use of land and the location and use of buildings and structures in accordance with the provisions of the Planning Act in order to ensure the orderly development of the city and contribute to and maintain community character. The proposed administrative amendments

are technical in nature, provide additional clarity and understanding to the user, help to ensure consistent application of zoning regulations, and to ensure orderly development.

City of Kitchener Zoning By-laws

The subject amendments represent an annual review and update of the City's Zoning By-laws. The recommended amendments implement mandatory Provincial legislation and clarify and correct wording of regulations and definitions to ensure that they are clear and are consistently implemented. Updates also ensure that the zoning by-law aligns with minimum built form requirements of other Divisions so that they are enforceable and implementable. This includes, for example, Fire Services requirements for unobstructed walkways to additional units, and Engineering Services requirements for minimum setbacks to accommodate drainage patterns in side yards.

The proposed amendments to Zoning By-laws 2019-051 and 85-1 are fully described in the Rationale Chart attached as Appendix C. The following areas of amendment are highlighted for convenience.

Permitted Projections into Required Yards

Section 4.14 of Zoning By-law 2019-051 regulates elements of the built form which are permitted to project closer to property lines than the required setbacks for the principal building including, for example, pools, HVAC equipment, balconies, decks, patios, porches and stairs. The recommended amendments to s.4.14 aim to improve readability and increase consistency between regulations for porches, decks, patios, and stairs or access ramps. They also have been updated so that similar projections have consistent requirements. For example, the updated regulations provide clarity that roof structures projecting from building are permitted over decks, patios and stairs within a required rear yard setback provided they comply with consistent height and setback regulations regardless of the feature they are covering.

Setbacks where there is a common wall

The proposed changes permit building projections such as porches, decks and stairs to have a 0 metre setback to a side lot line where the principal building shares a common party wall – for example for semi-detached dwellings or street townhouses. The change allows porches and decks to the side lot line rather than requiring a setback and increases the availability of outdoor amenity spaces.

Unobstructed walkways

Amendments are recommended to require that an unobstructed walkway be required to lead to the entrance of all additional dwelling units that do not face a street (the first, second and third additional dwelling unit (attached) and any additional dwelling (detached), and also be required for dwelling units in small multiples (5-10 units) that are not subject to Site Plan control. This will ensure that emergency services personnel, residents and visitors have a clear path of travel from a public street or sidewalk to the unit, and understand how to access the unit. Walkway requirements are recommended to be added to the Zoning By-law for all such dwelling units so that they may be considered applicable law and are enforceable. Regulations are also recommended to be updated to specify that the walkway may connect to the public sidewalk, or where there is no public sidewalk to the street.

Public Service Use

Public service uses can be provided in any zone and may include affordable housing when provided by the City, Region or Province. Staff recommend additional regulation where dwelling units are provided as a public service use to ensure dwelling units will be compatible with uses of surrounding lands. Public service uses are generally required to meet the regulations of the zone. Recommended amendments provide flexibility for how and where dwelling units are located within a building. Regulations governing built form such as setbacks, building height, overall floor space ratio continue to apply. Staff also recommend that affordable housing provided as a public service use should be exempt from minimum parking requirements. Transportation services is satisfied that public service agencies (City, Region and Province) will provide the appropriate amount of parking for the use, in consideration of location, access to transit etc. Minimum bicycle parking, barrier free parking, and parking for non-residential uses continue to apply.

Width of garage interior

The zoning by-law regulates the width of garages to ensure that garages and driveways do not dominate the streetscape. Maximum garage widths vary by dwelling type and geographical location. Zoning By-law 85-1 permits the interior width of a garage to be wider than the façade to allow space for additional storage space (bikes, lawnmowers etc.). Staff recommend adding this regulation to Zoning By-law 2019-051. This design will not impact the streetscape as the façade width of the garage is not changed and additional interior space is stepped back. Further, due to minimum construction requirements for walls, semi-detached dwellings on narrow lots require a slight increase in garage façade width to feasibly locate the minimum parking stall size within a garage. In such instances staff recommend permitting an increase in the private garage width to a maximum of 60%, rather than 50% to accommodate for a 3.0 metre wide garage interior, which is the minimum width of a parking space located inside a garage.

Transition Sunset Clause

Transitional regulations were included in By-law 2019-051 to permit subdivisions to continue to be registered and building permits to be issued for subdivisions approved under the regulations of By-law 85-1. This transition period expires for the residential zones in March 2025. Staff recommend extending this transition period for an additional 4 years for lots zoned RES-3 and RES-4 which generally permit semi-detached and single detached dwellings on smaller lot sizes. Due to market conditions and construction timelines, there are lots in approved and registered plans of subdivision that were approved under By-law 85-1, which have not yet received a building permit. The affected lots, associated building designs and previous Planning Act approvals comply with the regulations of By-law 85-1 and staff is supportive of continuing to permit them to be developed in accordance with the regulations in place at the time draft subdivision approval was granted.

Zoning By-law Conclusions

The above noted amendments to Zoning By-laws 85-1 and 2019-051 will result in more consistent application of the zoning regulations to ensure compliance with the Ontario Building Code and the City of Kitchener Development Manual. The proposed changes are minor and technical. Planning staff are recommending approval of the above noted amendments at this time, and are of the opinion that they represent good planning.

Additional Legal Services Administrator Position

In reviewing the increased workload associated with zoning review and planning approvals, staff have identified the need for additional support in Legal Services through an additional staff resource. Beginning in 2025, staff are proposing to create an additional Legal Services Administrator resource which will be cost shared through the operating budgets of the Planning and Engineering Divisions and recovered through development application fees.

Department and Agency Comments:

Notice of the proposed Annual Zoning By-law Amendment was provided November 8, 2024 to all applicable City departments and other review authorities. No concerns were identified by any commenting City department or agency.

STRATEGIC PLAN ALIGNMENT:

This report supports the delivery of core services.

FINANCIAL IMPLICATIONS:

Capital Budget – The recommendation has no impact on the Capital Budget.

Operating Budget – The recommendation will impact the Operating Budget as a result of the creation of a new FTE in the Legal Division. The cost will be shared through the operating budgets of the Planning and Engineering Divisions and recovered through development application fees.

COMMUNITY ENGAGEMENT:

INFORM – Preliminary notice of this application was posted on the City's website in November 2024. This report has been posted to the City's website with the agenda in advance of the council / committee meeting. Notice of the Statutory Public Meeting, held by the Planning and Strategic Initiatives Committee held on January 6, 2025 will be in The Record on December 13, 2024.

PREVIOUS REPORTS/AUTHORITIES:

- Planning Act, R.S.O. 1990, c. P.13
- Provincial Planning Statement, 2024
- Regional Official Plan
- City of Kitchener Official Plan
- City of Kitchener Zoning By-law 85-1
- City of Kitchener Zoning By-law 2019-051

APPROVED BY: Justin Readman – General Manager, Development Services

ATTACHMENTS:

- Attachment A – Proposed Zoning By-law Amendment (85-1)
- Attachment B – Proposed Zoning By-law Amendment (2019-051)
- Attachment C – Zoning Rationale Chart
- Attachment D – Public Notice