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# HALDIMAND COUNTY

## Report PDD-05-2023 Haldimand County Zoning By-law HC 1-2020 General Amendments



For Consideration by Council in Committee on March 21, 2023

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### OBJECTIVE:

To consider general amendments to the Haldimand County Zoning By-law HC 1-2020 to address provisions that require revision, correct oversights, and ensure that the document is relevant and user friendly.

### RECOMMENDATIONS:

1. THAT Report PDD-05-2023 Haldimand County Zoning By-law HC 1-2020 General Update Amendments be received;
2. AND THAT the proposed amendments to the Haldimand County Zoning By-law HC 1-2020 be approved for reasons outlined in Report PDD-05-2023;
3. AND THAT the by-law attached to Report PDD-05-2023 to amend the Haldimand County Zoning By-law HC 1-2020, be presented for enactment;
4. AND THAT the proposed amendments are deemed to be consistent with the Provincial Policy Statement 2020, the Provincial Growth Plan 2020 and other matters of provincial interest.

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**Respectfully submitted:** Mike Evers, MCIP, RPP, BES, General Manager of Community & Development Services

**Approved:** Craig Manley, MCIP, RPP, Chief Administrative Officer

### EXECUTIVE SUMMARY:

This report is being presented in conjunction with a public meeting to consider general text and mapping amendments to the Haldimand County Zoning By-law HC 1-2020, to correct operational items and improve the functionality of the document. The need for amendments has surfaced after the benefit of using the new County By-law on a day-to-day basis since its enactment in November 2020. Small errors, inconsistencies, and unintentional exclusions are common after the passage of a new comprehensive zoning by-law and typically surface once staff have had opportunity to utilize the new tool for a period of time. This is a subsequent update to a previous general amendments considered by Council in September 2021 (PDD-41-2021 – text amendments); December 2021 (PDD-54-2021 – mapping update); and June 2022 (PDD-33-2022 – text and mapping).

Planning staff are of the opinion that the proposed amendments are in conformity with the Provincial Policy Statement (2020), complies with the Provincial Growth Plan (2020), conforms to Haldimand County's Official Plan, and maintains the general intent and purpose of the Haldimand County Zoning By-law HC 1-2020. Planning staff recommend approval of this amendment for the reasons set out within

this report. Public notice was posted in the local newspaper within the County's coordinated ad and also through the County's website and social media platforms.

## BACKGROUND:

The County's Comprehensive Zoning By-law (By-law) regulates properties and development within the County. The By-law was approved by Haldimand County Council on November 23, 2020 and replaced the County's three (3) previous Zoning By-laws (Town of Dunnville 1-DU 80, Town of Haldimand 1-H 86 and City of Nanticoke NE 1-2000) and created consistency across the municipality. Subsequent reports were presented to Council in September 2021 (PDD-41-2021 – text amendments); December 2021 (PDD-54-2021 – mapping update); and June 2022 (PDD-33-2022 – text and mapping) to consider general amendments to the By-law. This subject report contains both proposed text amendments as well as property specific zoning changes to address additional items that have been identified through use and application of the By-law. These general amendment reports, are considered appropriate from time-to-time to address operational issues and address provisions that were either overlooked in the original document, or have proven not to be effective or efficient in their use.

These items were identified through the daily use of the by-law and application to various development applications and inquiries. The series of changes proposed by staff are included in table format in the Analysis section below.

## ANALYSIS:

### Text Amendments

The amendments proposed by staff are generally housekeeping in nature. Given that the changes maintain the intent of the original provisions, whether through additional content, revised content or other, there are no policy implications – either Provincial or local (Official Plan). As such, staff are of the opinion that all changes maintain consistency with all applicable policy. The changes recommended by staff are as follows with the additions noted in **bold** text and deletions noted in ~~strike through~~:

Section	Current Provision	Proposed Change	Comment
Definitions: Agriculture Use, On-Farm Diversified	shall mean uses that are secondary to the principal <i>existing agricultural use</i> of the property, and are limited in area. <i>On-farm diversified agriculture uses</i> may include but are not limited to:  a) farm tours;  b) farm education or information activities;  c) farm vacations;  d) farm amusement including petting zoo, carriage rides, hay or corn mazes, haunted	shall mean uses that are secondary to the principal <i>existing agricultural use</i> of the property, and are limited in area. <i>On-farm diversified agriculture uses</i> may include but are not limited to, <b>home occupations, home industries, agri-tourism uses, and the uses that produce value-added agricultural products.</b>  <del>a) farm tours;</del> <del>b) farm education or information activities;</del> <del>c) farm vacations;</del>	The intention is to remove the listing from the definition and leave the wording more generalized and flexible. This will also keep consistency with the definition contained in the Ministry of Agriculture, Food and Rural Affairs' on-farm diversified use guidelines.

Section	Current Provision	Proposed Change	Comment
	<p>barns or hay rides and other similar uses;</p> <p>e) special events including ploughing matches and other similar uses;</p> <p>f) seasonal attractions including sugar-bushes, pumpkin patches, pick-your-own, processing demonstrations and other similar uses; and</p> <p>g) a facility in which food products, including those produced as part of the farm operation or surrounding farms, are prepared and served.</p>	<p><del>d) farm ——— amusement including petting zoo, carriage rides, hay or corn mazes, haunted barns or hay rides and other similar uses;</del></p> <p><del>e) special events including ploughing matches and other similar uses;</del></p> <p><del>f) seasonal attractions including sugar-bushes, pumpkin patches, pick-your-own, processing demonstrations and other similar uses; and</del></p> <p><del>g) a facility in which food products, including those produced as part of the farm operation or surrounding farms, are prepared and served.</del></p>	
Definition: Dwelling, Apartment	shall mean a dwelling containing five or more dwelling units with a shared or common entrance.	shall mean a dwelling containing <del>five or more</del> <b>multiple</b> dwelling units with a shared or common entrance.	This amendment will provide flexibility for apartment units above commercial uses or secondary to other similar type uses. Currently, the way the definition is worded, to qualify as an apartment there has to be 5 dwelling units.
Definition: Street, Improved	shall mean a <i>street</i> as defined herein which has been constructed and is maintained in such a manner so as to facilitate its year-round use by automotive traffic and is intended to provide automotive access to abutting land.	shall mean a <i>street</i> , <b>excluding a private road or private right-of-way</b> , as defined herein which has been constructed and is maintained in such a manner so as to facilitate its year-round use by automotive traffic and is intended to provide automotive access to abutting land.	The definition change to exclude private roads or private right-of-way is proposed to align with policies in Haldimand County Official Plan, in particular that more clearly define a street as one within municipal jurisdiction.

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Definition: Farm Building Cluster	N/A	Shall mean the grouping of one or more farm related buildings and farm dwelling(s) in an arrangement which maximizes the agricultural area and potential of the farm lot.	The Zoning By-law does not have a definition for a Farm Building Cluster and this inclusion will help to provide clarity and location details as part of secondary suites.
4.2 Accessory Uses, Buildings and Structures to Residential Uses – j.	j) a detached pergola or similar <i>structure</i> less than 10 square metres in area is not subject to the provisions of 4.2 ‘a’ to ‘i’.	j) a detached pergola or similar <i>structure</i> less than <del>10</del> <b>16</b> square metres in area is not subject to the provisions of 4.2 ‘a’ to ‘i’.	This change is included to update the Zoning By-law to correspond to updated permissions under the Ontario Building Code.
4.3 Accessory Uses, Buildings and Structures to Non-Residential Uses d.	d) a detached pergola or similar <i>structure</i> less than 10 square metres in area is not subject to the provisions of 4.3 ‘a’ to ‘c’.	d) a detached pergola or similar <i>structure</i> less than <del>10</del> <b>16</b> square metres in area is not subject to the provisions of 4.3 ‘a’ to ‘c’.	
4.14 - Conversion of a Vacation Home Dwelling for Permanent Occupancy	The conversion of a <i>vacation home dwelling</i> or seasonal <i>dwelling</i> , for permanent occupancy as a <i>single detached dwelling</i> may be <i>permitted</i> provided that: (criteria a. – g)	<b>Notwithstanding Provision 4.41.7,</b> <del>The</del> the conversion of a <i>vacation home dwelling</i> or seasonal <i>dwelling</i> , for permanent occupancy as a <i>single detached dwelling</i> may be <i>permitted</i> provided that: (criteria a. – g)	The addition of the <i>notwithstanding</i> wording negates the clauses contained in Section 4.41.7, which creates a contradiction for the application of section 4.14 and the conversion of seasonal dwellings.
4.20 Exemptions from Yard Provisions	g) window or wall-mounted furnaces, heat pumps, gas fireplace vents and outdoor free-standing air conditioning units may project into any required rear yard, interior side yard, or exterior side yard a distance of not more than 1.0 metres and provided it is no closer than 6.0 m to a rear lot line	g) window or wall-mounted furnaces, heat pumps, gas fireplace vents and outdoor free-standing air conditioning units may project into any required rear yard, interior side yard, or exterior side yard a distance of not more than <del>1.0</del> <b>1.5</b> metres and provided it is no closer than 6.0 m to a rear lot	The change from 1.0 metres to 1.5 metres aligns more appropriately with side yard setbacks and creates a more applicable provision.

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	or 1.5 m to an interior or exterior lot line; and	line or 1.5 m to an interior or exterior lot line; and	
4.23 – Frontage on an Improved Street	N/A	e) notwithstanding the above provisions, a lot with access via a <i>private road</i> or <i>private right-of-way</i> which contains an existing permitted use, shall be permitted to have an accessory building or structure, subject to subsection 4.2.	Staff are proposing this provision as a new clause within the By-law and would permit properties with an existing use (i.e. dwelling) to be able to construct an accessory building without the need for a planning application.
4.24 – Garden Suites	iii) the suite is compatible with adjacent residential or agricultural properties in terms of aesthetics, privacy and noise.	To remove this provision.	This clause is proposed to be removed as it is a subjective provision – and does not have a basis in the By-law because it does not have measurable applicability. Haldimand does not have design guidelines to apply aesthetics against.
4.33 – Location of an Animal Kennel	c) 125 metres from an IC, IN, IR, or OS Zone or any residential use located on a separate lot, however, this shall not apply to an abandoned cemetery;	c) 125 metres from an IC, IN, IR, or OS, or <b>A</b> Zone or any residential use located on a separate lot, however, this shall not apply to an abandoned cemetery;	This modification will add the A zone and apply setbacks for animal kennel from an existing dwelling on an adjacent lot. It ensures residential compatibility is applied consistently.
4.55 Outdoor Patios	d) Additional <i>parking spaces</i> are <i>required</i> for any temporary <i>outdoor patio</i> on private property that is operated on a seasonal basis from May 1st to October 31st in any given calendar year. Parking requirements for a temporary <i>outdoor patio</i> is a	d) <del>Additional <i>parking spaces</i> are <i>required</i> for</del> Any temporary <i>outdoor patio</i> on private property that is operated on a seasonal basis from <del>May</del> <b>April</b> 1 <sup>st</sup> to <b>November 30<sup>th</sup></b> in any given calendar year <b>is not required to provide additional <i>parking spaces</i>.</b>	The changes to this provision are to align the Zoning By-law with the County's Patio Program and also with the Alcohol and Gaming Commission of Ontario (AGCO) liquor licence

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	reduction of up to 50% of the total parking <i>required</i> under Section 5.1.	<b>Any such temporary outdoor patio may occupy a maximum of three existing parking spaces provided this does not result in a reduction of more than 50% of the current parking supply.</b> <del>Parking requirements for a temporary outdoor patio is a reduction of up to 50% of the total parking required under Section 5.1.</del>	permissions. As well as remove the requirement that is currently within the By-law that patios must provide additional parking for patios. This will create additional flexibility and opportunities for restaurants to establish a seasonal patio without having to accommodate additional parking.
4.52 Railways and Setback from Railways	i) for any use <i>permitted</i> in the Residential <del>Zones</del> , Institutional <del>Zones</del> (excluding a <i>cemetery</i> ), or a <i>hotel</i> : 30 metres from a main rail line and 15 metres from all other rail lines;	i) for any residential or institutional use <i>permitted</i> in the <del>Residential Zones</del> , <del>Institutional Zones</del> (excluding a <i>cemetery</i> ), <del>or a hotel</del> : 30 metres from a main rail line and 15 metres from all other rail lines;	This amendment will correspond to CN provisions and broader rail setbacks. It will also include agricultural parcels where dwellings are proposed in proximity to rail corridors.
5.1 – Minimum Number of Required Parking Spaces	Outdoor Patio - 1 per 9.0 square metres of <i>gross leasable floor area</i> .	Remove this provision.	The intention to remove the minimum required parking spaces is to permit additional flexibility for restaurants and provide additional seating opportunities. During patio season, patrons are often seated outside instead of in which does not specifically create additional parking needs.
5.2.8 – Residential Parking Driveway Requirements	e) A maximum of one driveway per residential <i>lot</i> is <i>permitted</i> .	Remove this provision.	This provision is not required to be in the Zoning By-law. Entrances are reviewed under the design criteria and



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			through Entrance permits under Road Operations. The regulation under the by-law to limit the number of driveways per property is considered redundant and potentially limiting.
<p>Farmers Markets</p> <p>Section 7.2 – Permitted Uses Commercial Zone (Table 7.1)</p> <p>Section 9.2 – Permitted Uses Institutional Zone (Table 9.1)</p> <p>Section 10.2 – Permitted Uses Open Space (Table 10.1)</p>	N/A – farmers currently permitted in Downtown Commercial (CD) and Service Commercial (CG) zones.	Add Farmers Markets to the General Commercial (CG); Community Institutional (IC) and Open Space (OS) zones.	The inclusion of farmers markets in the CG; IC and OS zones will provide additional flexibility and location opens for the use within the community.
6.2c - Zone Provisions for Residential Zones: Minimum Amenity Area	N/A – currently not applicable for Group, Stacked or Back-to-Back townhouses.	20 sq. m per dwelling unit.	To ensure consistency with the amenity area being provided for townhouses and ensure that yard/green space is being provided for townhouse units.
6.2a and c – Zone Provisions for Residential Zones:	Minimum requirements of 70 sq. metres for R1-A and RH; 65 sq. m. for R2, R3 and R4; 40 sq. m. for R5 and R6 dwellings units.	Delete the minimum gross floor area.	The minimum gross floor area is regulated through the Ontario Building Code, so not strictly required within the Zoning By-law. By removing this

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Minimum Gross Floor Area:			provision, it has the potential to increase flexibility and opportunities for dwelling unit sizes and affordable opportunities.
7.2 Zone Provisions for the Commercial Zones Minimum Amenity Area - CD zone	N/A – currently not applicable for Group, Stacked or Back-to-Back townhouses.	20 sq. m. per dwelling unit.	Similar to the townhouse provisions proposed under the residential zone, this amendment will add the requirement for greenspace for townhouse proposals within the commercial zone.
Special Provisions 36.395 1.vii; 36.395 2.vi; 36.469 6.v; 36.469 7.vi; 36.443 1.vi; 6.4.1.2.1; R1- B.1.j; 6.4.4.2 R4.2.j	viii. That notwithstanding Section 6.21(d) Exemptions from Yard Provisions, a patio or deck above the finished grade may project into any <i>required rear yard</i> setback a distance of not more than 2.5 metres. Any patio or deck constructed in a <i>rear yard</i> is restricted to a maximum size of 3.1 metres by 2.5 metres.	viii. That notwithstanding Section 6.21(d) Exemptions from Yard Provisions, a patio or deck above the finished grade may project into any <i>required rear yard</i> setback a distance of not more than 2.5 metres. Any patio or deck constructed in a <b><i>required rear yard</i></b> is restricted to a maximum size of 3.1 metres by 2.5 metres.	This provision is applicable within a number of the Empire plans of subdivision within the County and has created some interpretation and application inconsistencies. This amendment will clarify the yard encroachment and limit the size within a required yard.

## Mapping Amendments

Location	Current Mapping/Zone	Proposed Change	Comment
Walpole: 3320030745000000; 3320030740000000; 3320030741000000; 3320030750000000; 3320030755000000; 3320030780000000; 3320030770000000; 3320030800000000; 3320030690000000;	Light Industrial (ML)	Agriculture (A)	This block of land was inadvertently zoned “ML” during the preparation of the Comprehensive Zoning By-law and is proposed to be reverted back to Agriculture (A) Zone. The lands are designated Agriculture in the Haldimand County Official Plan and were previously zoned Agriculture (A) in the former City of Nanticoke Zoning By-law. This amendment will



332003068600000; 332003068000000; 332003067000000; 332003067200000; 332003066000000; 332003066100000; 332003065000000; 332003063000000; 332003064000000; 332003064500000; 332003078500000			reflect the current nature of the parcels and future intention.
Caledonia: 151003025500000; 151003019000000	Urban Residential Type 1 (R1-A)	Open Space (OS)	These two parcels were previously zoned Hazard Land (HL) under the former Town of Haldimand Zoning By-law. One of the parcels is owned by Haldimand, while the other is owned by the Caledonia Agricultural Society. The parcels have been utilized as open space in the past and have no opportunities for residential development. The OS zone will more accurately reflect the function of the two lots.
Cottonwood Mansion: 158002615900000	Agriculture	Add Special provision to permit a museum and accessory uses, including:  i) special events to a maximum of 10 days per year;  ii) seasonal attractions are permitted to be sequential; and  iii) site plan control shall apply.	The Cottonwood Mansion is an important feature within Haldimand and this amendment will recognize many of the functions and events that are occurring as part of the operation of the historically significant site and which have long existed, been supported by the County in various ways and been promoted/used for various County functions.

The zoning provisions were reviewed and considered in context of the Provincial Policy Statement, 2020, the Provincial Growth Plan for the Greater Golden Horseshoe 2020, and the Haldimand County Official Plan. The Zoning By-law will implement the specific provisions to facilitate growth and development within the municipality. The Zoning By-law is considered to be consistent with the provincial legislation and in conformity with the Haldimand County Official Plan. The Zoning By-law is being passed through the regulations of the *Planning Act*, R.S.O. 1990, c. P.13. The *Planning Act* is provincial legislation and establishes the fundamentals for the land use planning systems in Ontario. It outlines how land uses may be controlled, and sets the administration for transparency and accountability in the planning process. Zoning By-laws are located in Section 34 of the Act. The

proposed amendments to Zoning By-law HC 1-2020 have been processed in accordance with the regulations of the *Planning Act*.

### **FINANCIAL/LEGAL IMPLICATIONS:**

Not applicable.

### **STAKEHOLDER IMPACTS:**

These amendments were raised and discussed through operational use of the by-law by Building and Planning staff. The amendments have been reviewed and are considered to improve the functionality of the by-law and applicability of the provisions.

### **REPORT IMPACTS:**

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

### **REFERENCES:**

None.

### **ATTACHMENTS:**

1. Draft By-law.
2. Draft By-law Mapping Update – Walpole.
3. Draft By-law Mapping Update – Cottonwood.
4. Draft By-law Mapping Update – Caledonia.