

MEMORANDUM



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To: Kathy McDonald
Clerk
Township of Billings and Allan East

Date: October 4, 2022

Job No.: 31653-002

CC: Theresa Carlisle, Secretary-Treasurer,
Manitoulin Planning Board

From: Erin Reed, Planner
Sarah Vereault, MCIP, RPP, Senior Planner

Re: Township of Billings and Allan East—
Final By-law for the Council's Consideration

Update Overview and Key Changes

Section 26(9) of the *Planning Act* requires that a municipality update its Zoning By-law following approval of a new Official Plan. The District of Manitoulin Official Plan was approved in 2018, and the Township of Billings and Allan East current Zoning By-law is from 1983.

The Township of Billings and Allan East (Township) has updated the Zoning By-law, which resulted in changes to the zone boundaries, permitted uses and regulations to ensure consistency with the Provincial Policy Statement 2020, conformity with the Northern Ontario Growth Plan 2012, and conformity with the District's 2018 Official Plan. The result is a new Zoning By-law.

J.L. Richards & Associates Limited (JLR) was retained by the Manitoulin Planning Board and Township to undertake the process. JLR has worked with Planning Board and Township staff to identify areas where revisions were needed, to consolidate previous amendments to the By-laws, review proposed schedules, update definitions and general provisions, and undertake the Zoning By-law review process.

In summary, key changes to the By-law include:

- Updating definitions to include new/current uses and terminology
- Updated Zoning names
 - o Conservation Zone now called Open Space Conservation (OSC)
 - o Recreational Zone now called Open Space Recreation (OSR)
 - o Commercial Recreation (CR) Zone now called Tourist Commercial (TC)
 - o Restricted Commercial (C) Zone now called General Commercial (C1)
- Added the General Industrial (M) Zone
- Added Core Commercial (C2) Zone
- Clear articulation of all special exception zones (including location, original amending by-law number as an historical reference, and special provisions) under the main zone and shown on mapping
- Updating definitions to reflect new uses (i.e. additional residential units, cannabis processing facilities) and terms (i.e. marine shore road allowance)
- Adding general provisions for additional residential units
- Adding general provisions for cannabis processing facilities
- Adding general provisions for short term rentals
- Adding general provisions for garden suites, portable shelters, and sea containers
- Adding general provisions for recreational vehicles, truck, bus and coach bodies, and recreational trailers
- Adding general provisions for marine shore road allowance
- Providing parking requirements for additional residential units, short-term rentals, and home day cares
- Updating the accessible parking provisions to align with the Ontario Integrated Accessibility Standards Regulation 191/11

- Adding provisions to permit residential units above or behind a commercial use
- Updating uses where zones have been consolidated and to ensure conformity with the Official Plan
- On the schedules:
 - o Changes to reflect the consolidation of zones; and
 - o Identification of special exception zones

Open House and Public Comments Received to Date

The statutory public Open House was held on Wednesday June 15th, 2022. Members of the public and Council attended the session. Oral and written comments were received at the Open House, no written comments have been received since the Open House.

The statutory Public Meeting at Council will be held on Wednesday October 5th, 2022. A notice of Public Meeting was published in early September. One written submissions was received since notice was given.

A summary of all of the public comments is attached to this memo along with the recommended response/revision to the document. The Township has original copies of all of the comments received.

Prior to adopting the By-law, Council must be satisfied that they have considered all Public Input that is received. The main themes brought up in public submissions are as follows:

1) Additional Residential Units in the Shoreline Residential Zone

Given the sensitive nature of waterbodies, concern was expressed regarding allowing further development in the Shoreline Residential Zone with Additional Residential Units. To respond to this Additional Residential Units have not been permitted in the Shoreline Residential Zone. In order for someone to put an Additional Residential Unit on a property zoned Shoreline Residential a site-specific amendment would be required.

2) How to treat properties with split zoning

Questions were received regarding how to treat lots with multiple zones. The schedules have been reviewed to remove split zonings, unless where necessary. Typically, split zoning is only on lots where there are natural heritage constraints. Where split zoning exists the provision of Section 4.18 'Properties with More than One Zone' will apply which states the following: "*Where a lot is divided into more than one zone, each such portion of said lot shall be considered separately for the purposes of determining zone provisions such as lot area, lot frontage, required front yard, required side and rear yards and each such portion shall conform to the provisions of the appropriate zone, but no lot shall have more than one dwelling unit on the whole except as specifically provided in this By-law.*"

3) Highwater mark setback

Comments were received regarding clarifying where the highwater mark is, that most waterfront properties do not own their marine shore road allowance, and ensuring that no clearing occurs within the marine shore road allowance. To address this a definition for marine shore road allowance has been included. Additionally, Section 4.26 'Waterfront Setbacks and Vegetative Buffer' states that "*the marine shore road allowance around all waterbodies extends 20 m from the shoreline.*" It further provides that "*no site alteration or vegetation clearance is permitted in the marine shore road allowance.*" To ensure appropriate access is granted to waterfront lots the by-law does permit a maximum of 25% of the shoreline vegetative buffer on private property to a maximum width of 15 m to be cleared.

4) Kennel provisions in the Rural Zone

Concern was expressed regarding kennels in rural areas and the impact they can have on surrounding residential lots or uses. To address this, the following was added to the Rural zone provisions: "*Notwithstanding any other*

provision of this By-law to the contrary, a kennel shall be located a minimum of 300 metres from any residential building or Residential Zone, excluding the residential building located on the same lot as the kennel."

5) Permitting Chickens

A comment was received regarding giving consideration for chickens to be permitted within larger residential lots. To reflect the backyard chicken by-law that the Township is developing, the following has been added to Section 4.1.1 to reflect the backyard chicken by-law: "*the use of any accessory building or structure for the keeping of animals, other than domestic pets, is not permitted in the Residential (R1), Village Area (VA), General Commercial (C1) or Core Commercial (C2) Zones, except in accordance with the Township's Backyard Chicken By-law.*"

District of Manitoulin Official Plan

The Planning Act states that decisions of Council in respect of a planning matter shall be consistent with policy statements issued under the Act, including the Provincial Policy Statement.

The District of Manitoulin Official Plan was approved in 2018 by the Ministry of Municipal Affairs and Housing (MMAH) and came into effect on October 29th 2018. As per Section 26(9) of the Planning Act the Board is required to amend its zoning by-law to ensure conformity with the recently approved OP. The following items were identified as key topics to ensure conformity:

- Permitting residential uses as an accessory use to a commercial use
- Establishing a minimum lot area of 40 hectares for Agricultural lots
- Review setbacks from Lake Huron
- Review parking provisions for second dwelling units;

It is our opinion that the revised By-law as proposed is consistent with the PPS and conforms to the District's Official Plan.

Next Steps

A Public Meeting will be held on Wednesday October 5th, 2022 with regards to the new Zoning By-law. Following the public meeting Council can choose to:

- Adopt the by-law as presented during the Public Meeting;
- Adopt the by-law with additional revisions;
- Defer a decision on the by-law until a set date (no additional notice required); or
- Defer a decision on the by-law until a date to be determined (additional notice required).

If Council decides to defer consideration of the By-law they can give any direction that is deemed appropriate including providing specific direction on changes that they wish to see, requiring additional consultation, providing other direction to Staff, such as to come back with a further review of the comments and recommendations.

The *Planning Act* requires that Council consider all input received at the Public Meeting and that they provide guidance on each submission prior to making a decision. If this input can be addressed adequately at the Public Meeting then we would have no concerns with adoption at that time. If new comments or input is received, we normally recommend consideration of the By-law at the next meeting to allow for review and response. We will work with Council to determine the appropriate course of action at the conclusion of the public input portion of the public meeting.

Following adoption, the By-law will be subject to a formal 20-day appeal period.

Should you have comments or require further information, please do not hesitate to contact the undersigned.

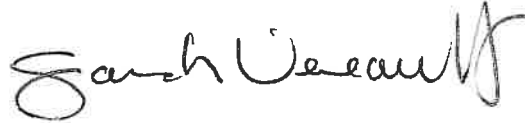
J.L. RICHARDS & ASSOCIATES LIMITED

Prepared by:



Erin Reed,
Intern Planner

Reviewed by:



Sarah Vereault, MCIP, RPP
Associate, Senior Planner

The following is a summary record of written public submissions received during the process for the new Zoning By-law (ZBL) for the Township of Billings and Allan East.

The rightmost column provides the recommended response or revision to the Zoning By-law as a result of the comments received.

Table 1: Written Comments received to date (note some responses have been abbreviated)

No	Date	Author/Org	Comments	JLR Recommendation/Response
1		Ardiss Fenske	a) Requests to consider the properties at 329 and 349 Maple Point Rd, Kagawong, currently zoned Restricted Commercial to be permitted to offer outdoor overnight accommodations, to travelers/tourists.	a) This type of use meets the definition of a campground under the proposed by-law. It is recommended that the landowner initiate the appropriate <i>Planning Act</i> application in order to request permission of this use on these lots.
2		Colenm Keever	a) Upper Street: suggests rezoning to Village Area as there is limited space available on Main Street for future expansion. b) 204 Main Street: currently this property is to be open space recreational, suggests that the Village Area zone is more appropriate as it is a water lot, the abutting property is Village Area and investments have been made in erosion control	a) Lands on the eastern side of Upper Street have been zoned Core Commercial (C2) to preserve commercial uses. Lands on the west side of Upper Street have been zoned Village Area (VA) to create flexibility as the zone permits residential, commercial and institutional uses. b) Property is proposed to be zoned Residential (R1).
3		Arthur Moran	a) Requests for consistent language with respect to principal or primary use. Only Principal use is defined. b) Request clarification on when a dwelling becomes a permitted accessory use. c) Suggests that Section 4.1.1 e) reflect the Backyard Chicken By-law d) Portable Shelter does not include a tent e) Should Sea Container definition be updated to say sea containers are not allowed. Will the definition be changed to include the modified shipping that has been attempted on some properties.	a) The by-law has been updated to ensure consistent language in the by-law. The term principal has been used for the main use. b) Guest cabins and additional residential uses are permitted habitable accessory structures, all other accessory structures cannot be converted for human habitation. c) Section 4.1 was updated to reflect the Township's Backyard Chicken By-law. d) Portable shelters are specifically defined in the by-law and are meant for storage, as opposed to temporary sleeping accommodations e) Section 4.1.7 'Sea Containers' has been included in the proposed by-law which states that <i>Shipping Containers are not permitted within the Township without an amendment to this By-law.</i>
4		Laurel Price	a) Home Occupations: is this limited to one member of the family? b) Is our sign on the road ok if it is lit at night with solar light? We also have a sign by our office door. c) Concern expressed for the Shoreline Residential Zone which permits seasonal dwellings where a road is not maintained year-round. Serendipity Lane has 6 year round residents currently who provide their own snow removal and winter maintenance.	a) Section 4.12(a) states has been updated to reflect the definition, and allows 1 person residing in the dwelling, plus 1 other who may or may not reside in the dwelling. b) Section 4.12 c) does not permit illuminated signs. c) Seasonal dwellings are not intended be used year-round. A single detached dwelling on a public road may be used seasonally. Existing legal uses are grandfathered-in.

ATTACHMENT 1

No	Date	Author/Org	Comments	JLR Recommendation/Response
			<p>d) 1.7 and 4.5 Do bunkies and the extra cottage become lawful because they are already there?</p> <p>e) If there intention is to add yurts and more bunkies is this allowed in the shoreline residential zone? Are they considered as commercial because of their marketing themselves as an event centre, etc.?</p> <p>f) The STR mention is confusing</p>	<p>d) Section 1.7 allows for existing legal buildings, structures and uses to continue after the adoption of the new by-law, regardless of whether they conform to the new ZBL or not. It is the grandfathering-in clause. Section 4.5 speaks to cannabis processing facility. Section 4.6 requires to change of use of a building to conform to the provisions of that zone.</p> <p>e) Guest cabins (bunkies) are limited to 1 per lot. As noted by the Township they have not been approached about the construction of any yurts.</p> <p>f) The current zoning by-law does not permit short term rentals. Existing short term rentals are only permitted where an amendment or variance has been granted by Council to allow for Short term rentals. Short term rentals are not identified as a use in any zone, and will require permission through a zoning amendment or variance by Council to be permitted. Under the definition of a short term rental they can be rented for any period up to 28 consecutive days. Short term rentals</p>



TOWNSHIP OF BILLINGS AND ALLAN EAST ZONING BY-LAW REVIEW

Comment Sheet

Thank you for your interest in the Township of Billings and Allan East new Zoning By-law. We welcome your questions or comments as we update the new Zoning By-law.

Contact Information

Name Ardiss Fenske E-mail _____
Mailing Address _____
Kagawong, ON
POP 1J0

Comments

In regards to the updating of the existing zoning by-laws, I would like to make a request for your consideration, concerning my properties at _____ and _____ Kagawong.

My 10 acres of property are currently zoned Restricted Commercial. I would like to be able to offer outdoor overnight accomodations, to travelers/tourists who are seeking short-term places to stay while visiting our beautiful island. As I live here on the property, there is little/no concern of guests creating noise or disturbances and are very likely to be spending their time sight-seeing, eating and shopping all around the island contributing to our tourism.

I am hopeful that my request will be considered as a benefit to our township and Manitoulin as a whole. Thank you.

Ardiss Fenske



TOWNSHIP OF BILLINGS AND ALLAN EAST ZONING BY-LAW REVIEW

Comment Sheet

Thank you for your interest in the Township of Billings and Allan East new Zoning By-law. We welcome your questions or comments as we update the new Zoning By-law.

Contact Information

Name COLE M^cKEEVER E-mail

Mailing Address
KAGAWONG, ON
POB-150

Comments

THANK YOU FOR OPPORTUNITY TO REVIEW
THE PLAN FOR KAGAWONG

THERE ARE TWO AREAS THAT I
WOULD LIKE TO OFFER SUGGESTIONS

• UPPER STREET
I WOULD SUGGEST THAT BE
CHANGED TO VILLAGE AREA
BECAUSE OF THE LIMITED SPACE
AVAILABLE ON THE MAIN ST
FOR FUTURE EXPANSION

(OVER)
↓

Comments continued:

• 204 MAIN ST

CURRENTLY THIS PROPERTY IS
TO BE OPEN SPACE RECREATIONAL
I FEEL IT WOULD BE MORE
APPROPRIATE TO HAVE IT VA-
VILLAGE AREA AS IT IS A:

- WATER LOT-POSSIBILITY FOR EXPANSION
- THE LOT BESIDE IT IS VA
- WE HAVE INVESTED OUR OWN
MONEY IN EROSION CONTROL
IN THE PAST AND MAY HAVE TO
DO MORE IN THE FUTURE

REGARDS:

Colin O McKeown

Thank you

Once you have completed this form, please mail, fax, or scan and e-mail to:

Kathy McDonald
Clerk
Township of Billings and Allan East
P.O Box 34
Kagawong, ON, P0P 1J0

or / ou

Erin Reed
Planner
J.L. Richards & Associates Ltd.
314 Countryside Drive
Sudbury, ON P3E 6G2

Email: kmcdonald@billingstwp.ca

E-mail: ereed@jlrichards.ca

Tel.: 705-282-2611 ext.223

Tel: 705-806-4082

4.1 Accessory Uses

1. The following provisions shall apply to permitted accessory buildings in each respective

zone:

a) Accessory buildings shall not be permitted prior to a primary use.

-primary use is not in the definitions, but there is a definition for principal use.

PRINCIPAL USE shall mean the primary purpose for which a lot, building or structure is used or intended to be used.

Either way, is the definition of primary or principal dictated by the zoning designation. i.e.

On Shoreline Residential is the primary/principal use a dwelling unit or seasonal dwelling.

b) Accessory buildings shall not be used for human habitation except where a dwelling is a permitted accessory use.

I do not understand what is meant here. When does a dwelling become a permitted accessory use??

c) Unless otherwise noted in this By-law the accessory structure shall have the same setbacks as the principal building, and shall not occupy more than 10% of the lot area.

d) Accessory uses and buildings shall maintain a minimum 2 m setback from the main building in all zones.

e) The use of any accessory building or structure for the keeping of animals, other than domestic pets, is not permitted in the Village Area (VA) Zone.

- This is contradictory to what is being proposed in the Backyard Chicken Bylaw.

f) Where the lot abuts a navigable waterway, a boathouse, dock or wharf, as an accessory building or structure, may be erected in the front yard, interior side yard, exterior side yard, or rear yard provided that the approval of any other governmental authority having jurisdiction has been obtained and that it is not located closer than 6 m to the side lot line or does not encroach on adjacent frontage when the lot boundaries are extended into the water.

A) Additional Residential Units

1. Where these uses are permitted, they are subject to the following provisions:

a) One additional residential dwelling unit is permitted in a single detached dwelling

unit, semi-detached dwelling unit, or rowhouse dwelling unit, and one accessory dwelling unit is permitted in a building or structure accessory to the aforementioned units;

b) The additional residential unit is designed and located in such a manner to not have an impact on the streetscape or character of the surrounding neighbourhood;

c) Additional residential units shall be subject to the corresponding zone provisions if located in the primary structure;

d) Additional residential units in an accessory structure shall be subject to the general provisions for accessory uses;

e) An additional residential unit is permitted on private services, provided it can be demonstrated that the private sewage disposal system can accommodate the change in use; and

f) Additional residential units are prohibited from being severed from the lot containing the primary dwelling unit.

B) Guest Cabin

1. A maximum of one (1) guest cabin is permitted per lot.

2. A guest cabin for human habitation is not permitted except where a dwelling is a permitted

accessory use.

C) Portable Shelters

1. Portable shelters are permitted, subject to the following provisions:

a) A maximum of two (2) portable shelters are permitted on a property

- PORTABLE SHELTER shall mean a prefabricated structure usually constructed with metal, wood, or plastic frame and covered with a tarpaulin or other similar type of fabric or plastic cover, used primarily for the storage of a vehicle and other items.

- The definition of portable shelter does not include a tent in which people can camp. An example of this would be the military styled tent that was on the Mootry property on the end of Grandor where it was set up as an all-season camping structure.

I am looking at this in the context of a person trying to get around the trailer by-law

2. Portable shelters must be located a minimum of 0.6 m from the rear, interior and/or exterior

side property lines;

3. If located in the front yard the portable shelter shall be located a minimum of 5.0 m from the front lot line and not pose any hazards for vehicular movement or human health and safety;
4. Portable shelters shall be included in the lot coverage calculations; and
5. Portable shelters are subject to the provisions established in the Property Standards Bylaw.

D) Private Swimming Pools

1. A swimming pool erected in any zone shall be permitted in the side yard of any lot provided

that:

- a) No part of such pool shall be located closer to any lot line or street line than the minimum distance required for the principal building located on such lot; and
 - b) Any building or structure, other than the main building, required for changing clothing or for pumping or filtering facilities, or other similar accessory uses, shall be in accordance with the provisions applicable to accessory buildings on such lot.
2. A swimming pool as an accessory use to a permitted residential or rural use shall be permitted in the rear yard of any lot provided that no part of such pool shall be located closer to any lot line or street line than the minimum distance required for an accessory building located on such lot.

E) Recreational Vehicles

1. Recreational trailers and vehicles must be stored and used in accordance with By-law 2021-48 Recreational Trailers/Vehicles Outside of Tent and Trailer Parks, or its successors.

F) Truck, Bus and Coach Bodies

1. No truck, bus, coach or street car body, or structure of any kind other than a dwelling unit erected and used in accordance with this and all other By-laws of the Corporation shall be used for human habitation whether or not the same is mounted on wheels.

G) Sea Containers

1. Shipping containers are not permitted within the Township without an amendment to this By-law.

SEA CONTAINER shall mean a reusable enclosed metal structure manufactured to be utilized in the transporting, shipping, and storing of goods and having the original intended benefit to be transferred from one mode of transport to another without the requirement of being unloaded. This shall include intermodal shipping containers, sea containers, storage containers, transport truck trailers, and straight truck trailer boxes, but does not include any vehicle defined herein.

This

shall also include those containers where the original doors and/or door closures have been removed, leaving the container not fully enclosed.

-Shouldn't this read that sea containers are not allowed as shipping container is not in the definition.

-will the definition be changed to include the modified shipping container that Cristani tried to use on his property?