

Technical Memorandum #1

Interpretation and Administration

Zoning By-law Review

Town of St. Marys

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July 2026



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1. Introduction

This Technical Memorandum forms part of the overall background review for the Town of St. Marys Zoning By-law Review.

The Town of St. Marys (“The Town”) adopted a new Official Plan on April 12, 2022, and it was approved by the Ministry of Municipal Affairs and Housing (MMAH) on October 9, 2024. The purpose of the Zoning By-law Review is to implement policy direction provided by the recently approved Official Plan. This Zoning By-law Review will introduce regulations that are concise, easy to understand, and provide clear direction on land use and built form while also providing flexible implementation where appropriate.

The objective of this Technical Memorandum is to review and analyze the administrative and interpretation matters contained within the Town Zoning By-law.

2. Overview

2.1 What are Interpretation, and Administration Clauses?

Sections 1 and 2 of the Town Zoning By-law provides comprehensive regulations to guide users on how the Zoning By-law is to be implemented and administered. The table below provides an overview of the subsections currently included in the Town Zoning By-law:

Table 1 -Summary of Interpretation and Administrative Provisions of the Zoning By-law

Title of Subsection	Purpose
Section 1 of the Zoning By-law	
Title	Identifies that the Zoning By-law may be cited as the Zoning By-law of the Corporation of the Town of St. Marys.
Application	Establishes that the Zoning By-law is applicable to all lands within the boundaries of the Corporation of the Town of St. Marys.
Conformity Requirements	Specifies that no person within the Town is permitted to erect, locate, alter, or use any building, structure except in conformity with the provisions of the Zoning By-law. Similarly, no person is permitted to use a building or structure that is in contravention of the Zoning By-law. Also specifies that no lot is permitted to be reduced in area, frontage, or depth, so that the area of such lot is less than that required in the Zoning By-law. This restriction does not apply in

Title of Subsection	Purpose
	instances of conveyance or expropriation by the Corporation of the Town of St. Marys or any other authority having the powers of expropriation.
Repeal of Existing By-laws	States that all previous Zoning By-laws adopted by the Council of the Corporation of St. Marys are repealed.
Severability	Establishes that if a portion of the Town Zoning By-law is deemed invalid, the rest of the Zoning By-law shall remain in effect.
Unlawful Uses	States that any uses established in violation of the previous Zoning By-law shall be deemed an unlawful or illegal use under the current Zoning By-law unless the use is permitted under this Zoning By-law.
Effective Date	Establishes that this Zoning By-law comes into force on the day it was passed by the Council of the Corporation of the Town of St. Marys.
Section 2 of the Zoning By-law	
Administration	Establishes that the Zoning By-law shall be administered and enforced by a person or persons through a Zoning By-law or resolution of the Corporation of the Town of St. Marys.
Permits, Certificates, and Licences	States that the Town will not issue a permit, certificate, or license for any use of land, or the erection, alteration, enlargement, or use of any building or structure that is in violation of the provisions of the Zoning By-law.
Inspection of Premises	Establishes that any employee of the Corporation acting under the direction of the Zoning Administrator is permitted to enter upon any property or premises on if such employee believes on reasonable grounds that a contravention of the Zoning By-law is occurring. However, this section includes regulations stating that no employee will be allowed to enter, a building or structure being used as a dwelling, without obtaining the consent of the property owner and/or under the authority of a search warrant issued under the <i>Provincial Offences Act</i> .
Building Permits	States that no building permit shall be issued where the proposed building, structure, or use would be in violation of the Zoning By-law.
Application for Building Permit	Establishes the submission requirements for an application for building permit.

Title of Subsection	Purpose
Moving of Buildings	Establishes that any building or structure that is moved from within the boundary of the Town or from beyond the boundary of the Town to a site within any zone category established by the Zoning By-law will be considered a new building or structure and be required to comply with the provisions of the Zoning By-law. No building or structure is permitted to be moved within the boundary of the Town or to the Town from beyond its limits without the issuance of a building permit.
Violations and Penalties	Establishes the applicable penalties to anyone convicted of violating the regulations of the Town Zoning By-law. In addition, it establishes additional regulations, related requirements and costs associated to remedying violations.
Remedies	Establishes that if a building or structure is to be erected, altered, reconstructed, or extended or part thereof is to be used, or any lot is to be used, in contravention of any requirements of this Zoning By-law, such a contraventions may be stopped by the Town or a rate payer of the Town, pursuant to the provisions of the <i>Planning Act</i> .
Conformity Information	Establishes the submission requirements to obtain written information from the Municipality as to whether a lot is being used or that the use and/or location of any buildings and structures situated thereon is in conformity with the Zoning By-law.

3. Analysis and Proposed Changes

The table below provides recommended changes to Interpretive and Administrative Clauses of the Town Zoning By-law:

Table 2 – Proposed changes to the Zoning By-law

Section No.	Proposed Zoning By-law Change	Rationale
NEW	Add the following new provisions: <u>1.# TRANSITION PROVISIONS</u> <u>1.#.1 Planning Applications and Approvals</u> <u>1.#.1.1 Nothing in this By-law prevents the approval of the</u>	It is recommended that transition provisions for <i>Planning Act</i> applications are provided to guide staff on how to proceed once the amended Zoning By-law is approved.

Section No.	Proposed Zoning By-law Change	Rationale
	<u>following applications where the application was filed and deemed complete in accordance with the <i>Planning Act</i> on or before [date by-law is passed] provided that the application is in accordance with all prior zoning by-laws and minor variance approvals that affected the lot immediately before [date by-law is passed]:</u> a) <u>site plan approval</u> b) <u>a consent to sever</u> c) <u>an approval of a draft plan of subdivision;</u> d) <u>a plan of condominium approval</u> e) <u>a part-lot control exemption approval; and</u> f) <u>a minor variance</u> <u>1.#.1.2 This By-law is deemed to be modified to the extent necessary to permit a building or structure that is erected in accordance with a planning application approved under provision 1.8.1.1. However, provision 1.8.1.1 shall be repealed in five (5) years after [date the by-law]. This provision shall not require an amendment to this By-law to take effect.</u> <u>1.#.1.3 Applications for zoning by-law amendment that were submitted prior to the approval of this Zoning By-law will, if approved, be incorporated via an amendment into this Zoning By-law.</u> <u>1.#.1.4 All minor variances applied for prior to the final approval of amending By-law No. ##, and subsequently approved, shall continue to apply and remain in</u>	Transition provisions refer to the provisions in a Zoning By-law which address the transition process for projects occurring during the time that a new Zoning By-law came into effect. The Zoning By-law contains transition provisions related to building permits in section 5.15.2 and 5.16.2 of the Zoning By-law. It is recommended that transition provisions related to planning applications are incorporated to provide staff with guidance on how to proceed once the amended Zoning By-law is approved.

Section No.	Proposed Zoning By-law Change	Rationale
	force as if they are variances to By-law No. Z1-1997 as amended by By-law No. ##. Transition provisions regarding building permits included in Sections 5.15.2 and 5.16.2 of the Zoning By-law should be moved to this section and renumbered 1.8.2 and 1.8.3.	
NEW	Add the following provisions: <u>1.# Technical Revisions</u> <u>Revisions may be made to this Zoning By-law without the need for a Zoning By-law Amendment in the following cases:</u> a) <u>Changes to appendices, footnotes, headings, table of contents, page numbering, and reference information, which do not form a component of this by-law and are editorially inserted for convenience of reference only.</u> b) <u>Adding or revising technical information on maps or schedules that does not affect the zoning of lands, including but not limited to color, scale, legend and infrastructure information such as a street name or a highway;</u> c) <u>Correction of grammar, punctuation, typographical errors or revisions to format in a manner that does not change the intent of the provisions.</u>	It is an emerging best practice to include provisions within the administrative section of the of the Zoning By-law that permit technical revisions, without an amendment to the Zoning By-law. Technical revision provisions would generally include: • Editorial changes such as updating headings and page numbering; • Additions and/or corrections to mapping that does not change the zoning or extent of applicable provisions; ○ This could include updating information such as street names; and ○ Editorial changes such as updating the colors and/or legend of a map; ○ Correction of grammar, punctuation, or typographical errors or revisions to formatting that

Section No.	Proposed Zoning By-law Change	Rationale
		does not change the intent of the provision.
NEW	1.# REQUIRED SETBACKS FOR BUILDINGS AND STRUCTURES LOCATED ON PARCELS OF URBAN RESIDENTIAL LAND <u>1.#.1 Notwithstanding the minimum and maximum setback requirements outlined in this Zoning By-law, the required minimum/maximum setback distance from a property line in respect of a building or structure located in a parcel of urban residential land may be reduced up to 10 percent of the required setback of this By-law without the need for a <i>Planning Act</i> Application as provided under the <i>Planning Act</i> R.S.O. 1990, c.P.13 as amended or any successor legislation.</u> <u>1.#.2 The aforementioned provision will not be applicable to:</u> (a) <u>Any area that is within 300 meters of an active railway line. However, this does not include railway lines that only operates an urban rail transit system.</u> (b) <u>Any area that is within 120 metres of:</u> a. <u>A wetland</u> b. <u>An inland lake, or</u> c. <u>a river or stream valley that has depressional features associated with a river or stream, whether or not it</u>	It is recommended that this provision is added to the Zoning By-law to implement the Planning Act changes introduced by <i>Bill 17, Protect Ontario by Building Faster and Smarter Act, 2025</i>. This legislation introduced changes to the <i>Planning Act</i>, that have implications on how setbacks from parcel boundaries are applied to buildings and structures located on parcel of urban residential land. Maximum and minimum standards may now be reduced by a maximum of 10% in accordance with O. Reg. 545/06. This regulation is not applicable to lands on certain prescribed areas. It is recommended that new provisions are added to the administration section of the Zoning By-law to reference and ensure consistency with the new changes introduced by Bill 17.

Section No.	Proposed Zoning By-law Change	Rationale
	<u>contains a watercourse.</u>	
2.1	Edit text as follows: 2.1 ADMINISTRATION This By-law shall be administered <u>under the authority of the Chief Building Official or by such an employee as designated by the Chief Building Official</u> and enforced by such person or persons as shall be appointed from time to time by by-law or resolution of the Corporation of the Town of St. Marys.	As Zoning By-laws are applicable law under the Ontario Building Code. It is recommended that the Chief Building Official administer the Zoning By-law. This is a common best practice across municipalities in Ontario.
2.5	Delete the following section: 2.5 APPLICATION FOR BUILDING PERMIT In addition to all requirements of the Corporation's Building By-law, or any other by-law of the Corporation, every application for a building permit shall be accompanied by a plan in duplicate, a copy of which shall be retained by the Zoning Administrator, drawn to scale and showing the following: 2.5.1 The true dimensions of the lot to be built upon or otherwise used. 2.5.2 The location and dimensions of all existing buildings and structures on such lot; 2.5.3 The proposed location, height, and dimensions of any building, structure, or use proposed for such lot; 2.5.4 The proposed location and dimensions of any yards, setbacks, parking spaces, loading spaces, driveways, landscaped open	These provisions are beyond the scope of what is included in a Zoning By-law. As such, it is recommended that these provisions are deleted.

Section No.	Proposed Zoning By-law Change	Rationale
	spaces, and any other information as the Zoning Administrator considers necessary to determine whether every such building, structure, or use conforms with the requirements of this By-law; and 2.5.5 A statement or affidavit signed by the owner or designated agent indicating the existing use of the lot and buildings and/or structures thereon and all proposed changes to the use, buildings and structures and giving all information necessary to determine if such use, buildings and/or structures, and proposed changes conform with the requirements of this By-law.	
2.6	Delete the following section: 2.6 MOVING OF BUILDINGS Any building or structure that is moved from within the boundary of the Corporation or from beyond the boundary of the Corporation to a site within any zone category established by this By-law shall be considered as being a new building or structure and shall be required to comply with the provisions of this By-law. Further, no building or structure shall be moved within the boundary of the Corporation or shall be moved into the Corporation limits from outside without a building permit issued by the Corporation.	This provision is redundant with provisions included in section 1.3, which states that no person shall locate any building except in conformity with the provisions of the Zoning By-law. As such, it is recommended that this provision is deleted.
2.7.1	Edit text as follows: 2.7.1 Every person, not being a corporation, who uses or alters the use of any lot, or erects, alters, or uses any building or structure on a	It is recommended that “or any successor legislation” is incorporated to reduce the need for housekeeping amendments to the Town Zoning By-law.

Section No.	Proposed Zoning By-law Change	Rationale
	lot in a manner contrary to any requirements of this By-law, or who causes or permits such use, erection, or alteration, or who violates any provision of this By-law or causes or permits a violation, shall be guilty of an offence and upon conviction is liable on a first conviction to a fine of not more than \$25,000 (exclusive of costs) and on a subsequent conviction to a fine of not more than \$10,000 for each day or part thereof upon which the contravention has continued after the day on which such person was first convicted pursuant to Section 67 of the Planning Act R.S.O. 1990, <u>c.P.13</u>, as amended-, or any successor legislation.	
2.7.2	Edit text as follows: 2.7.2 Every corporation that uses or alters the use of any lot, or erects, alters, or uses any building or structure on a lot in a manner contrary to any requirements of this By-law, or that causes or permits such use, erection, or alteration, or that violates any provision of this By-law or causes or permits a violation, shall be guilty of an offence and upon conviction is liable on a first conviction to a fine of not more than \$50,000 (exclusive of costs) and on a subsequent conviction to a fine of not more than \$25,000 for each day or part thereof upon which the contravention has continued after the day on which such corporation was first	It is recommended that “or any successor legislation” is incorporated to reduce the need for housekeeping amendments to the Town Zoning By-law.

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	convicted pursuant to Section 67 of the Planning Act R.S.O. 1990, <u>c.P.13 as amended-, or any successor legislation</u>	
2.7.4	Edit text as follows: 2.7.4 Where a person is guilty of an offence under the provisions of this By-law and has been directed to remedy any violation and is in default of doing such matter or thing required, such matter or thing shall be done at the expense of the person or corporation-, <u>as provided under Section 446 of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, or any successor legislation.</u>	This regulation is permitted by the <i>Municipal Act</i> , as such, it is recommended that a reference to the <i>Municipal Act</i> is added. In addition, it is recommended that “or any successor legislation is incorporated to reduce the need for housekeeping amendments to the Town Zoning By-law.
2.7.5	Edit text as follows: 2.7.5 Where a person has refused or neglected to reimburse the Corporation for the cost of work, matter, or thing done, the cost may be recovered by the Corporation in the like manner as municipal taxes or other method as referred to in Section 326 <u>446</u> of the Municipal Act, R.S.O. 1990-2001, S.O. 2001, c. 25, as amended- <u>or any successor legislation.</u>	The existing provision does not appropriately cite the <i>Municipal Act</i> . As such, it is recommended that this reference is updated. In addition, it is recommended that “or any successor legislation is incorporated to reduce the need for housekeeping amendments to the Town Zoning By-law.
2.8	Delete the following section: 2.8 REMEDIES: In case any building or structure is to be erected, altered, reconstructed, extended or part thereof is to be used, or any lot is to be used, in contravention of any of the requirements of this By-law, such contravention may be restrained by action at the instance of any ratepayer or of the	There isn't a regulation under the <i>Municipal Act</i> or <i>Planning Act</i> that permit contraventions of the Zoning by-law to be restrained by action at the instance of any ratepayer or Corporation. Section 67 (3) of the <i>Planning Act</i> states that where a conviction is entered under subsection (1), in addition to any

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	Corporation pursuant to the provisions of the Planning Act, and the Municipal Act, R.S.O. 1990, as amended.	other remedy or any penalty provided by law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted. As such, it is recommended that this provision is deleted.
2.9	Delete the following section: 2.9 CONFORMITY INFORMATION 2.9.1 Any person requiring written information from the Corporation as to whether a lot is being used or that the use and/or location of any buildings and structures situated thereon is in conformity with the provisions of this By-law shall provide the following to the Zoning Administrator: (a) an application fee in an amount as established by Council for such written information; (b) a plan of survey signed by an Ontario Land Surveyor showing the boundaries of the lot in question and the location of all buildings and structures situated on the lot; (c) a statement or affidavit signed by the owner of the lot indicating the exact use of the lot and of all buildings and structures situated on the lot;	These provisions are beyond the scope of what is included in a Zoning By-law. As such, it is recommended that these provision are deleted.

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	(d) any other information as may be required by the Zoning Administrator to assist in determining whether the use of the lot and the use and location of the buildings and structures conform to the provisions of this By-law. 2.9.2 The Zoning Administrator reserves the right to waive the requirement for any of the information referred to in Subsection 2.9.1 above if it determines that such is not necessary to satisfactorily respond to the request for conformity information.	
5.15 & 5.16	Move Legal Non Compliance and Legal Non-Conformity Sections to Section 1 of the Town Zoning By-law	Legal Non-compliance and Legal Non-conformity provisions are considered an administrative matter as they address how the Zoning By-law should be applied for uses and/or structures that were legally established prior to the current Zoning By-law coming into effect. As such it is recommended that these provisions are moved to the administrative section of the Zoning By-law. For an analysis of the proposed changes to these provisions, please refer to Technical Memorandum #4.

4. Conclusion and Recommendations

This Technical Memorandum reviewed the Introduction and Administration section of the Town Zoning By-law. It is recommended that the changes outlines in Section 3 be

incorporated into the New Zoning By-law to ensure consistency with the *Planning Act*, the updated Town of St. Marys Official Plan, and ensuring consistency with general best practices.