

Technical Memorandum #10

Environmental and Open Space Zones

Zoning By-law Review

Town of St. Marys

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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.

As part of this process, the Town of St. Marys is seeking to determine an appropriate approach to the use permissions and regulations for its Environmental and Open Space Zones to ensure that it addresses the needs of the Town.

The purpose of this Technical Memorandum is to provide direction on updates to the Zoning By-law regarding environmental and open space uses, and zoning permissions and standards in the Environmental and Open Space Zone categories.

This report will evaluate the existing Environmental and Open Space Zones for conformity with the existing policy framework found in the proposed Town Official Plan, to identify gaps and challenges and determine how to address those gaps.

2. Overview

What are Environmental and Open Space Zones?

Environmental and Open Space zones and overlays are intended to identify previous and existing waste disposal and sewage treatment facilities, to permit recreational uses, and identify natural hazards. These zones are intended to apply Town Official Plan designations associated with environmental constraints and hazards, parks and open space and recreation areas, and source water protection areas.

Of note there are inconsistencies in the Town Zoning By-law between the text and mapping of the Town Zoning By-law. The following table identifies the relationship between Official Plan designations as well as zones in the Town Zoning By-law, as well as inconsistencies between text and mapping:

Table 1 – Environmental and Open Space Zones

Zone Symbol	Description of Zone	Associated Official Plan Designation
Environmental Constraint Zone (EC)	This zone permits waste disposal, sewage treatment facilities, and a range of recreational uses.	Environmental Constraint Designation
Open Space Zone (OS)	This zone permits a range of active and passive recreational uses.	Recreational Designation
Flood Plain Zone (FP)	This zone permits agricultural uses, conservation uses, limited recreational uses, existing uses, and public works and utility uses.	Flood Plain (Schedule A and Schedule C) & Floodway within the two zone concept Designation
Special Policy Area Constraint Zone (SPA)	This zone functions as an overlay that is intended to implement a two zone concept for flood plains, as permitted to be implemented under the Provincial Planning Statement. Where the two zone concept for flood plains is applied, development and site alteration may be permitted in the flood fringe, subject to appropriate floodproofing to the flooding hazard elevation or another flooding hazard standard approved by the Minister of Natural Resources and Forestry. This overlay permits the uses permitted in the underlying zone provided that all uses, buildings, and structures satisfy the policies of section 3.8 of the Official Plan, regarding the Special Policy Area prior to being permitted. These lands appear to be mapped Flood Fringe Constraint Area rather than SPA in Map 7 and 13 of the Town Zoning By-law.	Flood Plain Areas – Schedule C

Zone Symbol	Description of Zone	Associated Official Plan Designation
	The Zoning By-law text and mapping will need to be updated to ensure consistency.	
Natural Hazard Constraint Areas (NHCA)	The “Natural Hazard Constraint Areas” applies to the “flood plain” (which includes floodway and the flood fringe), natural slopes (e.g. fill lines), steep slopes, unstable soils (muck), and wetlands (for their flood control). The “Natural Hazard Constraint Areas” boundaries are intended to be coincident with the outer boundaries of the “Natural Hazard Constraint Area” designation as shown on Schedule “C” to the Town of St. Marys Official Plan. The Natural Hazard Constraints Area is not mapped in the schedules to the Zoning By-law. There is mapping for the Upper Thames River Conservation Authority (UTRCA) Regulation Limit. It is likely that the Zoning Provisions regarding Natural Hazard Constraint Areas will need to be replaced with provisions to acknowledge matters pertaining to requirements regarding the Upper Thames River Conservation Authority (UTRCA) Regulation Limit.	Natural Hazards Constraint Area – Schedule C

There are two matters that will require zoning to be established in the new Zoning By-law. These matters are described as follows:

Table 2 – Deficiencies in the Town Zoning By-law

Deficiency	Description
Natural Heritage	There isn’t an existing zone to implement the Town’s Natural Heritage Designation. It appears that the schedules to the Zoning By-law zone lands NRE to acknowledge the Natural

Deficiency	Description
	Heritage Designation. There are no zoning provisions regarding the NRE zone.
Source Water Protection – Schedule ‘D’ of Town Official Plan	There isn’t an existing zone to implement the Town’s Source Water Protection Area Overlay. Zoning provisions will need to be established regarding Source Water Protection.

3. Analysis and Proposed Changes

The following are recommended changes based on legislative and policy requirements, a review of trends pertaining to Zoning By-law Amendment Applications and Minor Variance trends, and technical issues identified by Town Staff.

3.1 Planning Act and Provincial Policy

There are no changes required based on the *Planning Act* or Provincial policy.

3.2 Official Plan – Permitted Uses

Table 3 – Recommended Updates to Zoning By-law for Conformity with Official Plan Permitted Uses

Section No.	Proposed Zoning By-law Change	Rationale
13.1	Delete the following uses: (a) open space uses; (a.1) a dog park; (a.2) a hiking trail; (c1) a multi use pathway; (c.2) a passive recreational use;	The intent of this zone is to implement the Environmental Constrain designation. In accordance with policy 3.6, this designation is intended to apply to existing and former waste disposal sites and sewage treatment plants in the Town. Furthermore, policy 3.6.2.2 outlines that no use may be made of former waste disposal sites subject to additional criteria. There are no policies

Section No.	Proposed Zoning By-law Change	Rationale
		that permit recreational uses under this designation.
15.1	The following uses shall be deleted and captured under the term “Recreational use”: (b.2) a multi-use pathway; (d) sports field and baseball diamond; (e) swimming pool; (f) a tennis court;	The aforementioned uses are not defined in the Zoning By-law. However, these uses are generally captured under the use “Recreational Use.” There is also no planning rationale to identify specific Recreational Uses.
15.1	Add the following uses: Existing residential uses;	Policy 3.7.2 permits existing residential uses.
16.1	Add “passive recreational use” as a permitted use.	Policy 3.8.2 states that passive recreational uses are permitted.
NEW	Add the following new zone: <u>Section 21 – NATURAL HERITAGE ZONE (NH)</u> <u>21.1 Permitted Uses, Buildings and Structures:</u> <u>(a) buildings and structures necessary for flood or erosion control work;</u> <u>(b) passive recreational uses; and</u> <u>(c) existing buildings at the date of the passing of this by-law</u> <u>21.2 Requirements for Permitted Uses</u> <u>The addition and/or modification of an existing building or structure is not allowed unless the written approval of the applicable Conservation Authority is obtained.</u>	A new zone will be created to implement the Town’s Natural Heritage Designation. Policy 3.9.2 outlines the permitted uses for this designation, which includes passive recreation, infrastructure works, wildlife and forest management works and minor additions to existing buildings. Some uses such as conservation lands, and public infrastructure are already permitted through the general provisions section of the Zoning By-law
NEW	Add the following new overlay: <u>Section 22 – SOURCE WATER PROTECTION OVERLAYS</u>	To implement the use prohibition regulations of the Town Official Plan and

Section No.	Proposed Zoning By-law Change	Rationale
	<u>22.1 Use Prohibitions within Vulnerable Areas – WHPA-A Overlay</u> <u>Notwithstanding the land uses permitted by the underlying zone category in this By-law, the following uses are prohibited in vulnerable areas identified on Schedule X to this By-law:</u> (a) <u>Disposal of Hauled Sewage to Land;</u> (b) <u>Storage, Treatment and Discharge of Tailings from Mines;</u> (c) <u>Waste Disposal Sites;</u> (d) <u>Application of Processed Organic Waste to Land;</u> (e) <u>Storage of Processed Organic Waste or Waste Biomass;</u> (f) <u>Storm Water Management Facilities and Drainage Systems</u> (g) <u>Wastewater Collection Facilities and Associated Parts</u> (h) <u>On-site Sewage Works</u> (i) <u>Septic Systems</u> (j) <u>Application of Agricultural Source Material (ASM) to Land</u> (k) <u>Application of Non-Agricultural Source Material (NASM) to Land</u> (l) <u>Non-Agricultural Source Material (NASM) Storage</u> (m) <u>Application of Commercial Fertilizer</u> (n) <u>Commercial Fertilizer Storage</u> (o) <u>Application of Pesticides to Land</u>	applicable regulations of the Source Water Protection Plan. It is recommended that a new overlays area added to identify the areas where these prohibitions apply.

Section No.	Proposed Zoning By-law Change	Rationale
	(p) <u>Pesticide Storage (greater than 2500 kg)</u> (q) <u>Road Salt Storage At Aggregate Operations</u> (r) <u>Handling and Storage of Road Salt (Exposed to Precipitation or Runoff)</u> (s) <u>Storage of Snow at a Snow Disposal Facilities</u> (t) <u>Handling and Storage of Fuel in Wellhead Protection Areas and Intake Protection Zones</u> (u) <u>Handling and Storage of Dense Non-Aqueous Phase Liquids (DNAPLs)</u> (v) <u>Handling and Storage of Organic Solvents</u> (w) <u>Agricultural Source Material (ASM) Generation Through Livestock Grazing or Pasturing Land, an Outdoor Confinement Area or a Farm Animal Yard</u> <u>22.2 Use Prohibitions within Vulnerable Areas – WHPA-B Overlay</u> <u>Notwithstanding the land uses permitted by the underlying zone category in this By-law, the following uses are prohibited in vulnerable areas identified on Schedule X to this By-law:</u> (a) <u>All uses as outlined in section 22.1, except for the application of commercial fertilizer</u> <u>22.3 Septic Systems within vulnerable areas</u> <u>Notwithstanding any other provision of this By-law to the</u>	

Section No.	Proposed Zoning By-law Change	Rationale
	<u>contrary, the following shall apply to WHPAs A & B as identified on schedule X:</u> i. <u>Any use, building or structure that requires a new septic system to be located within a WHPA A or B shall be prohibited;</u> ii. <u>22.3 i. shall not apply to new septic systems required for a municipal water supply well.</u>	

3.3 Official Plan – Lot and Building Requirements

There are no changes required based on the updated Town Official Plan.

3.5 Technical Issues

Table 4 – Recommended changes to the Zoning By-law to Address Technical Matters

Section No.	Proposed Zoning By-law Change	Rationale
18.1	Edit the text as follows: The “<u>Upper Thames River Conservation Authority Regulation Limit Overlay</u> Natural Hazard Constraint Areas” applies to the “flood plain” (which includes floodway and the flood fringe natural slopes (e.g. fill lines), steep slopes, unstable soils (muck), and wetlands (for their flood control). The “<u>Upper Thames River Conservation Authority Regulation Limit Overlay</u>Natural Hazard Constraint Areas” boundaries are intended to be coincident with the outer boundaries of the “Natural Hazard Constraint Area” designation as shown on Schedule “C” to the Town of St. Marys Official Plan <u>and demonstrate the extent of the Upper Thames River Conservation Authority regulation limit.</u> The provisions of the “<u>Upper Thames River Conservation</u>	It is recommended that the name “Natural Hazard Constraint Areas” is revised to “Upper Thames River Conservation Authority Regulation Limit Overlay” to clarify that this is an overlay and not a zone. Furthermore, this change is recommended to inform readers that the overlay coincides with the Upper Thames River Conservation Authority (UTRCA) Regulation Limit and also subject to the UTRCA’s policies.

Section No.	Proposed Zoning By-law Change	Rationale
	<u>Authority Regulation Limit Overlay Natural Hazard Constraint Areas</u> as established by this By-law are to be applied in conjunction with the zone provisions for the “underlying” zones as established by this By-law.	
18.2	Edit text as follows: 18.2 Permitted Buildings and Structures in Accordance with Section 8 of the Town of St. Marys Plan All uses, buildings, and structures permitted in the “underlying” Zone must satisfy the policies of Section 8 of the Town of St. Marys Official Plan before they are to be permitted and before any required building permits will be issued. EXPLANATORY NOTE: Uses, buildings and structures as permitted by Sections 18.1 and 18.2 above are to be permitted to the extent allowed by the regulations made under the Conservation Authorities Act, as amended. <u>The erection of a building or structure will not be allowed unless the written approval of the applicable Conservation Authority is obtained.</u>	The existing provisions are beyond the scope of the type of regulations that are permitted within a Zoning By-law. As such it is recommended that this entire section is deleted. Section 3.8 outlines how the natural hazards within the Town of St. Mary’s fall within the jurisdiction of the Upper Thames River Conservation Authority (UTRCA). Furthermore, policy 3.8.3.1 states that policies with Natural Hazards, are also subject to the policies of the UTRCA. As such, it is recommended that a provision is added requiring that permitted uses are only permitted provided that the appropriate approval/permit has been obtained from the Conservation Authority.
16.3	Edit the text as follows: Buildings and Structures Permitted in Accordance with Section 3.6 of the Official Plan	The existing provisions are beyond the scope of the type of regulations that are permitted within a Zoning By-law. As such it is

Section No.	Proposed Zoning By-law Change	Rationale
	Notwithstanding the provisions of Sections 16.1 and 16.2 of this By-law, the following applies: Where a lot is located entirely within the FP Zone, limited development associated with the "existing uses" located in the "Floodway" may be permitted in accordance with the policies set forth in Section 3.6 of the Official Plan for the Town of St. Marys. Where a lot is situated in both the FP Zone and a development permitted zone, buildings and structures associated with the uses permitted in the zone abutting the FP Zone may be permitted within the "flood fringe" portion of the FP Zone in accordance with the policies set forth in Section 3.6 of the Official Plan for the Town of St. Marys. EXPLANATORY NOTE: Buildings and structures as permitted by Sections 16.2 and 16.3 above are to be permitted if and to the extent allowed by the regulations made under the Conservation Authorities Act, R.S.O. 1990, as amended from time to time.	recommended that this entire section is deleted. Furthermore, policy 3.8.2 only permits infrastructure related to flood and erosion control.
17	Edit text as follows: Section 17 – SPECIAL POLICY AREA CONSTRAINT OVERLAY ZONE (SPA)	Rename “Special Policy Area Constraint Zone” to “Special Policy Area Constraint Overlay” to clarify that this is an overlay and not a zone within the Zoning By-law. All other instances where this term is mentioned will be updated in the Zoning By-law.
Schedule A Maps 7 and 13	Replace all references in mapping of “Flood Fringe Constraint Area” with Special Policy Area Constraint Overlay (SPA)."	This changes is necessary to ensure consistency between the text in Section 17 and the maps in Schedule A.

Section No.	Proposed Zoning By-law Change	Rationale
17.2	Edit text as follows: 17.2 Permitted Buildings and Structures in Accordance with Section 3.8 of the Official Plan All uses, buildings, and structures permitted in the "underlying" zone must satisfy the policies of Section 3.8 of the Official Plan for the Town of St. Marys before they are to be permitted and before any required building permits will be issued. EXPLANATORY NOTE: Buildings and structures as permitted by Sections 17.1 and 17.2 above are to be permitted to the extent allowed by the regulations made under the Conservation Authorities Act, R.S.O. 1990, as amended. <u>The erection of a building or structure will not be allowed unless the written approval of the Upper Thames River Conservation Authority has been obtained.</u>	The existing provisions are beyond the scope of the type of regulations that are permitted within a Zoning By-law. As such it is recommended that this entire section is deleted. Policy 3.8.3.7 states that where buildings and structures are permitted, they shall be subject to the approval of any flood proofing measures required by the Upper Thames River Conservation Authority. As such, is it recommended that a provision be added establishing this requirement.

4. Conclusion and Recommendations

This Technical Memorandum reviewed the existing Environmental and Open Space zones within the Town of St. Marys. It is recommended that the changes outlined in Section 3 be incorporated into the Zoning By-law to ensure conformity with the updated Town Official Plan, while also maintaining appropriate consideration of the local context and recent planning trends.

Appendix A - Correspondence of Environmental and Open Space Zones with Official Plan Designations and Use Permissions

Table 5 – Correspondence of Environmental and Open Space Zones with Official Plan Designations and Use Permissions

Official Plan Designations	Official Plan Environmental and Open Space-related Permitted Uses	Environmental and Open Space Zones
Environmental Constraint Designation	- is intended to apply to existing and former solid waste disposal sites and the sewage treatment plant in the Town	EC
Recreational Designation	- Parks - Open spaces - Trails - Golf courses - Recreational facilities - The Canadian Baseball Hall of fame - Existing residential uses - Utility uses	OS
Natural Hazard Designation – Flood Plain, Floodway within the Two Zone Special Policy Area	- Forestry - Conservation uses - Flood or erosion control works/infrastructure - Agriculture - Utilities - Passive outdoor recreation uses	FP
Natural Hazards Constraint Area	- The Natural Hazards Constraint Area overlay is not intended to be a separate land use designation, but rather is intended to be superimposed over and above other land use designations established by this Official Plan. The policies for the Natural Hazards Constraint Area shall apply in addition to all	NHCA

Official Plan Designations	Official Plan Environmental and Open Space-related Permitted Uses	Environmental and Open Space Zones
	applicable policies for the underlying land use designation. - These boundaries are based on the approved natural hazard mapping criteria of the Upper Thames River Conservation Authority and aerial photograph interpretation.	
Special Policy Areas	- uses permitted in accordance with the applicable policies of the underlying land use designations established by this Plan provided they receive the appropriate approval/permit from both the Town and the Conservation Authority - New residences and institutions are not permitted. - existing residences and institutions, are recognized within the floodplain.	SPA
Natural Heritage	- Activities that create or maintain infrastructure authorized under an approved environmental assessment process; - Buildings or structures intended for flood or erosion control or management of the natural feature approved by the Town and the UTRCA - Use of the area for an approved wildlife, wetland or fishery management project as approved by the	NRE

Official Plan Designations	Official Plan Environmental and Open Space-related Permitted Uses	Environmental and Open Space Zones
	Town and the Upper Thames River Conservation Authority and/or the Ministry of Natural Resources and Forestry - Use of the area for passive recreation, such as recreational walking trails and passive environmental education and research; and, - Minor additions to existing buildings developed and located on existing cleared land in accordance with the Town's implementing Zoning By Law	
Source Water Protection	- Prohibits certain activities that are considered drinking water threats as established by the Upper Thames River Conservation Authority Source Water Protection Plan	N/A