

KINGSTON OFFICIAL PLAN EXTRACT

Purpose: The purpose of this document is to provide the user with a summary of the relevant sections of the Kingston Official Plan that pertain to the potential Official Plan Amendment submission that is expected to be submitted with respect to the proposed change of land use at 2285 Battersea Road.

Scope: The Kingston Official Plan is 547 pages. This extract of the relevant sections of the Official Plan is 41 pages. The Table of Contents included here is that of the Kingston Official Plan. For ease of use, relevant sections have been highlighted and hyperlinked to that section of the document.

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2.7 Land Use Compatibility Principles

The City contains many land uses of differing type and intensity. Some land uses create little impact on their neighbours, while others can have an *adverse effect* if not properly located or buffered. In order to foster a sustainable pattern, some land uses need to inter-relate, while others are best separated. Further growth and *development* within the City will be guided by principles of land use *compatibility* that respect the quality of existing areas and provide for suitable transition between areas of differing use, sensitivity, urban design treatment, and intensity in order to avoid or mitigate *adverse effects*.

(Amended by By-Law Number 2017-57, OPA Number 50)

Goal:

To provide new opportunities for growth and investment within Kingston in a manner that ensures *compatible* development and land use.

(Amended by By-Law Number 2017-57, OPA Number 50)

Policies:

Compatible Development and Land Use Change

- 2.7.1.** Development and/or land use change must demonstrate that the resultant form, function and use of land are *compatible* with surrounding land uses.

(Amended by By-Law Number 2017-57, OPA Number 50)

- 2.7.2.** The demonstration of *compatible* development and land use change must consider the potential for *adverse effects* and matters that have the potential to negatively impact the character, planned function and/or ecological integrity of an area, and the health and safety of humans. Where there exists a potential for negative impacts, a land use compatibility study, focused specifically on the identified land use *compatibility* matters, will be required.

(Amended by By-Law Number 2017-57, OPA Number 50)

Land Use Compatibility Matters

- 2.7.3.** The land use *compatibility* matters to be considered under Section 2.7.2 include, but are not limited to:
- a.** shadowing;
 - b.** loss of privacy due to intrusive overlook;
 - c.** increased levels of light pollution, noise, odour, dust or vibration;

- d. increased and uncomfortable wind speed;
- e. increased level of traffic that can disrupt the intended function or amenity of a use or area or cause a decrease in the functionality of *active transportation* or transit;
- f. environmental damage or degradation;
- g. diminished service levels because social or physical *infrastructure* necessary to support a use or area are overloaded;
- h. reduction in the ability to enjoy a property, or the normal amenity associated with it, including safety and access, outdoor areas, heritage or setting;
- i. visual intrusion that disrupts the streetscape or buildings;
- j. degradation of *cultural heritage resources*;
- k. architectural incompatibility in terms of scale, style, massing and colour; or,
- l. the loss or impairment of *significant* views of cultural heritage resources and natural features and areas to residents.

(Amended by By-Law Number 2017-57, OPA Number 50)

Mitigation Measures

- 2.7.4.** Mitigation measures may be used to achieve development and land use *compatibility*. Such measures may include one or more of the following:
- a. ensuring adequate setbacks and minimum yard requirements;
 - b. establishing appropriate transition in building heights, coverage, and massing;
 - c. requiring fencing, walls, or berming to create a visual screen;
 - d. designing the building in a way that minimizes *adverse effects*;
 - e. maintaining mature vegetation and/or additional new landscaping requirements;
 - f. controlling access locations, driveways, service areas and activity areas; and,
 - g. regulating location, treatment and size of *accessory uses* and structures, lighting, parking areas, garbage storage facilities and signage.

Planning Act tools including zoning by-law standards, site plan control, development agreements and other measures will be used to implement mitigative measures that achieve *compatible* land use change and development.

(Amended by By-Law Number 2017-57, OPA Number 50)

Distance Separation

- 2.7.5.** In some cases, distance separation will likely be the recommended form of mitigation, particularly:
- a.** between heavy industrial uses (Class I, Class II and Class III Industrial Facilities), sewage treatment facilities, electricity generation facilities and electricity transmission and distribution systems, transportation and *infrastructure corridors*, *airports*, rail facilities, *marine facilities*, *mineral aggregate resources and operations*, and residential or other *sensitive uses*;
 - b.** between intensive land uses and sensitive environmental areas; and,
 - c.** between intensive livestock operations, permanent manure storage, or resource extractive operations and *sensitive uses*, sensitive environmental features, or sensitive environmental functions. When identifying a required distance separation related to livestock operations, the *minimum distance separation formulae* will be used.

(Added by By-Law Number 2017-57, OPA Number 50)

Functional Needs

- 2.7.6.** Only *development* proposals that meet the long-term needs of the intended users or occupants will be supported. Proponents, whether developing individual buildings on a single site, or multiple buildings being built at one time or phased over time, will be required to demonstrate to the satisfaction of the City that the functional needs of the occupants or users will be met by providing:
- a.** suitable scale, massing and density in relation to existing built fabric;
 - b.** appropriate landscaping that meets or improves the characteristic green space amenity of the site and surroundings and enhances the City's tree planting program;
 - c.** adequate land area and appropriate site configuration or provision or land assembly, as required;
 - d.** efficient use of municipal services, including transit;
 - e.** appropriate *infill* of vacant or under-utilized land; and,
 - f.** clearly defined and safe:
 - site access;
 - pedestrian access to the building and parking spaces;
 - *amenity areas*;
 - building entry; and,

- parking and secure and appropriate bicycle facilities.

(Amended by By-Law Number 2017-57, OPA Number 50)

Guidelines and Studies

- 2.7.7.** When assessing *development* applications or undertaking new *development* area studies, the City may require urban design guidelines, a heritage impact statement or an *environmental impact assessment*, and other studies as appropriate, to be prepared by the proponent and at the expense of the proponent, and approved by the City. This is to assist in assessing impacts, to provide means of appropriate transition or mitigation, or to foster cohesive and improved conditions. At any stage of the application process, the City may require such studies to undergo a peer review at the proponent's expense.

(Amended by By-Law Number 2017-57, OPA Number 50)

Land Use Compatibility in Rural Areas

- 2.7.8.** Issues of *compatibility* are critical in Rural Areas, as the long term protection of *normal farm practices* is a priority. This is reflected in the mutual separation of *livestock operations* and *sensitive uses* but also in addressing unique rural issues such as allowing the transport of farm machinery, tillage of land, and regular livestock husbandry techniques.

(Amended by By-Law Number 2017-57, OPA Number 50)

3.12 Rural Lands

It is the intent of the Plan to maintain a permanent and viable agricultural industry as a component of the economic base of the City, to provide employment and a sustainable source of local food. The Rural Lands designated on Schedule 3 reflects areas of the City outside of the *Urban Boundary* that generally have Classes 5, 6, and 7 soils with less suitability to sustain viable agriculture and existing non-farm *development* that may limit the future of intensive farm activity. There are small areas of high capability farmland, existing *livestock operations* as well as other uses that are designated Rural Lands.

(Amended by By-Law Number 2017-57, OPA Number 50)

Goal:

To protect the rural community by balancing the environmental, resource protection, community and economic objectives of land use on Rural Lands, and to permit a range and scale of uses that help to promote the long term growth and viability of the rural community. To protect land suitable for agricultural production from scattered *development* and land uses which are unrelated to agriculture. To focus growth and development in the identified Hamlets of Elginburg, Brewer's Mills, Kingston Mills, Joyceville, Glenburnie, and Sunnyside and to promote their vitality and regeneration.

(Amended by By-Law Number 2017-57, OPA Number 50)

Policies:

Function

- 3.12.1.** The City recognizes the role of Rural Lands in contributing to agricultural production, forestry and *mineral* resources, natural areas and *wildlife habitat*, providing opportunities for rural economic *development*, outdoor *recreation*, and supporting the appreciation of natural areas that provide a contrast and respite from urban life.

(Amended by By-Law Number 2017-57, OPA Number 50)

Permitted Uses

- 3.12.2.** Permitted uses in Rural Lands include all *agricultural uses*, *agriculture-related uses*, and *on-farm diversified uses* as permitted in the Prime Agricultural Area designation, sports and outdoor *recreation* activities in accordance with Section 3.12.4, and detached dwellings in accordance with Section 3.12.10 and that are *compatible* with adjacent land uses. Limited non-farm growth is permitted in Rural Lands if it does not limit or interfere with *agricultural use*, *agriculture-related uses*, *on-farm diversified uses* or a broader range of rural uses, and if it meets the environmental objectives of this Plan.

(Amended by By-Law Number 2015-82, OPA Number 29)

(Amended by By-Law Number 2017-57, OPA Number 50)

On-farm Diversified Uses

- 3.12.3.** *On-farm diversified uses* are permitted in accordance with the provisions of Section 3.11.5 of this Plan.

(Amended by By-Law Number 2017-57, OPA Number 50)

Recreation Uses

- 3.12.4.** Small-scale tourist operations and *recreation* uses, including equestrian centres, rod and gun clubs, winter sports clubs and facilities, and similar uses requiring large areas of land and a rural setting but which are non-intensive and do not provide overnight accommodation, may be permitted in Rural Lands through amendment to the zoning by-law. If these uses are developed in place of an existing *agricultural use* or *agriculture-related use*, then they must be capable of reverting back to its former *agriculture use* or *agriculture-related use* if the small-scale tourist operation or *recreation* use ceases to exist.

(Amended by By-Law Number 2017-57, OPA Number 50)

Community Uses

- 3.12.5.** New community facilities in accordance with Section 3.2 of this Plan, are permitted, including places of worship, community centres, libraries or *recreation* facilities. These uses are encouraged to locate within designated Hamlets that can accommodate such uses, and it is the intent of this Plan to recognize such uses in the zoning by-law.

MDS Formulae

- 3.12.6.** All new or expanding *livestock operations* and applicable non-farm *development* will be required to comply with the *minimum distance separation formulae*.

Severances for Farm Use

- 3.12.7.** The creation of new lots for *agricultural uses* and farm related residential uses may be permitted provided that any consent affecting a farm use be consistent with the following policies:
- a. the minimum lot size for an *agricultural use* is 40 hectares, and the minimum lot size for a new residential use is 1 hectare;
 - b. a severance for an existing residence that is surplus to a farming operation, resulting from a farm consolidation (which is the acquisition of additional farm parcels to be operated as one farm operation) is permitted;
 - c. where two dwellings exist on a lot, a lot for a surplus farm dwelling may be subject to an application for consent and a zoning by-law

amendment, if required, that recognizes only the existing dwelling and prohibits any new residential construction on either the lot created by the consent, or the remnant parcel;

- d. any consent granted must comply with the general severance policies in Section 9.6 of this Plan;
- e. any new lot, or the location of any new use must comply with the area of influence relative to the Mineral Resource Area, Waste Management Industrial Areas, or the *minimum distance separation formulae*; and,
- f. policies of Section 9.6 regarding lot creation in the Prime Agricultural Area designation.

Conditions

- 3.12.8.** The Committee of Adjustment or approval authority for consents within the Rural Lands designation may require, as a condition of provisional consent approval, the execution and registration of a development agreement acknowledging the proximity of the property to agricultural activities. The development agreement may include warnings regarding noise, dust, odour, and other periodic nuisances that may result from normal farm practices.

(Amended by By-Law Number 2017-57, OPA Number 50)

Severances for Non-farm Residential Use

- 3.12.9.** Lots designated Rural Lands may be severed for non-farm residential uses, subject to the policies of Sections 9.6.10 through 9.6.18 of this Plan and the following policies:
- a. For consents proposed within the former Township of Pittsburgh, only two severances shall be permitted from a landholding that consisted of less than 120 hectares on March 17, 1982;
 - b. For consents proposed within the former Township of Kingston, only two severances shall be permitted from a landholding that existed as of November 6, 1997; and
 - c. The minimum lot area is 1.0 hectare.

(Amended by By-Law Number 2011-89, OPA Number 6)

(Amended by By-Law Number 2013-98, OPA Number 16)

(Amended by By-Law Number 2017-57, OPA Number 50)

Development on Existing Lots

- 3.12.10.** New residential *development* in the Rural Lands designation is generally discouraged and single detached dwellings are only permitted in accordance with the following criteria:
- a. on existing lots of record;

- b.** as minor infilling of *development*, subject to the policies of Section 9.6 of this Plan;
- c.** on a lot with a minimum lot area of at least 1 hectare;
- d.** on a lot that is in compliance with all of the policies governing area of influence as set out in Section 9.6 of this Plan;
- e.** on a lot that will be buffered along the boundary where the Rural Lands designation abuts the Prime Agricultural Area designation;
- f.** on a lot that meets the private *individual on-site well and sewage services* policies of Section 4.4 of this Plan;
- g.** subject to the appropriate conditions of approval as set out in Section 9.6.17 of this Plan; and,
- h.** for existing lots of record on private roads, *development* must meet the policies of Section 4.6.62 of this Plan.

Kingston Official Plan May 1, 2018

(Amended by By-Law Number 2011-89, OPA Number 6)
(Amended by By-Law Number 2013-98, OPA Number 16)
(Amended by By-Law Number 2017-57, OPA Number 50)

Lots for Rural Commercial and Rural Industrial

- 3.12.11.** Lot creation by consent for new rural commercial and industrial uses may be permitted, subject to the consent policies of Section 9.6 of this Plan and provided that the new lot requires a minimum lot size of 1 hectare and the remnant parcel is maintained for *agricultural use*.

(Amended by By-Law Number 2013-98, OPA Number 16)

Transportation Utility Corridor

- 3.12.12.** Within Rural Lands, the City intends to minimize disruption to the farm unit, agricultural operations and farm community created by any planned transportation or utility corridor. Special consideration must be given to such matters as ensuring adequate drainage and accommodating the movement of farm machinery along roads.

(Amended by By-Law Number 2013-98, OPA Number 16)
(Amended by By-Law Number 2017-57, OPA Number 50)

Forest Resources

- 3.12.13.** Part of the *natural heritage system* includes *significant woodlands*, and *contributory woodlands*, which are shown on Schedule 8 as an overlay in the municipality. Landowners are encouraged to recognize these forest resources as an integral part of their total agriculture operation, both as a source of income from various forest products, and as an important component of soil and water conservation. Landowners and farmers are encouraged to:

- a. manage *woodlands* in accordance with proper forest management practices in consultation with the appropriate agency;
- b. retain existing tree cover as much as possible, and particularly in areas of low capability soils, slopes, major drainage swales and flood prone areas to reduce runoff rates and minimize soil erosion;
- c. establish and retain windbreaks to reduce wind erosion; and,
- d. reforest non-productive farmland where it is not providing *significant wildlife habitat or habitat of endangered species and threatened species*.

(Amended by By-Law Number 2013-98, OPA Number 16)

(Amended by By-Law Number 2017-57, OPA Number 50)

Existing Clusters

- 3.12.14.** The Rural Lands designation also contains clusters of residential lots that may have a local identity and a name but have not developed the mix of uses or extent of *development* that is typical of the Hamlets designated in this Plan. A cluster is a definable node consisting of a minimum of five developed properties located either on both sides of an opened public road or within a quadrant of an intersection of two opened public roads. Additional *development* is permitted in these clusters only if it can be demonstrated that the proposed use:

- a. represents *infill* within the cluster of development and does not expand the outer boundary of the cluster;
- b. is located on an existing lot of record or a new lot created by consent only;
- c. has frontage upon, and access to, an existing public road that has been assumed by the City;
- d. meets the requirements of Sections 3.13.9, 3.13.10, and 9.6 of this Plan;
- e. does not impact the surrounding agricultural operations' ability to conduct *normal farm practices*; and,
- f. will not jeopardize the resource protection or environmental objectives of this Plan.

(Amended by By-Law Number 2013-98, OPA Number 16)

(Amended by By-Law Number 2017-57, OPA Number 50)

Dwelling Unit Accessory Use

- 3.12.15.** Where the appropriate environmental approvals for *individual on-site water and sewage services* are obtained, a *residential unit* as an *accessory use* within an existing single detached dwelling is permitted in Rural Lands,

subject to the applicable zoning by-law, or a *garden suite* is permitted in Rural Lands, subject to the policies of Section 3.3.D.17 and Section 9.5.20 of this Plan.

(Amended by By-Law Number 2011-89, OPA Number 6)
(Amended by By-Law Number 2013-98, OPA Number 16)
(Amended by By-Law Number 2017-57, OPA Number 50)

Estate Residential

- 3.12.16.** Existing Estate Residential *development* as shown on Schedule 3, consisting of detached houses and any common *recreation* or open space areas, are intended to be recognized in the zoning by-law. Compliance with *minimum distance separation formulae* is required. Within an existing Estate Residential subdivision, only an application for consent for technical purposes is permitted.

(Amended by By-Law Number 2013-98, OPA Number 16)

Proposal for New Estate Residential Development

- 3.12.17.** Approval of new areas of Estate Residential *development* is strongly discouraged by Council and, upon review of the following criteria, may be prohibited. Any proposal to expand or designate new Estate Residential areas requires an amendment to this Plan, rezoning, and a plan of subdivision. All applications are required to demonstrate conformity to the following policies through submission of supporting plans and studies as may be required in accordance with Section 9.12 of this Plan, and prepared by *qualified persons* to the satisfaction of the City:

a. Estate Residential *development* must be limited in scale, as follows:

- the scale of the development is small such that it is clearly subordinate to Hamlets in the hierarchy of rural settlement;
- the number of lots is limited such that it does not compromise the ability for Hamlets and other vacant lots of record designated Rural Lands to also accommodate a portion of the small share of rural growth forecasted during this Plan's horizon;

b. the site has tree cover, varied topography or other interesting landscape characteristics suitable for residential *development* and these qualities are preserved in the proposed *development*;

c. the open space amenity is preserved by clustering residential lots and protecting the *natural heritage system* from *development*;

d. the distance from the urban area is sufficient to ensure that there are no future demands for extension of municipal water or sewer services and the City is satisfied that there will be no other undue financial demands on the municipality, and further to this:

- the proposed *development* does not abut the *Urban Boundary*; and,
- the proposed *development* does not abut a Hamlet designation;
- e. the soil and groundwater conditions are capable of supporting necessary *individual on-site water and sewage services* with no *adverse effects* on the proposed *development* lands, *adjacent lands* or on the surface water system as demonstrated by an engineering and hydrogeological report to the satisfaction of the City, Health Unit and Ministry of the Environment and Climate Change, as appropriate;
- f. access is from a public road that has been assumed by the City;
- g. in areas that abut a watercourse or water body, all setbacks are those set out in this Plan or such additional setback as may be determined through consultation with the Cataraqui Region Conservation Authority, or as established in the implementing zoning by-law;
- h. where Estate Residential *development* is proposed on *adjacent lands* to the Rideau Canal, it does not impact upon the *natural heritage system* or *cultural heritage resources* of that setting;
- i. the minimum lot area is 1.0 hectare, or as may be determined by the above criteria, as applied to the site, and established in the implementing zoning by-law; and,
- j. the area of influence in proximity to any Mineral or Mineral Aggregate Resource designation and the *minimum distance separation formulae* in proximity to *livestock operations* must be met.

(Amended by By-Law Number 2013-98, OPA Number 16)
(Amended by By-Law Number 2017-57, OPA Number 50)

Plans of Subdivision

3.12.18. All proposed plans of subdivision accompanying an application to amend this Plan to permit an Estate Residential *development* or the extension of an existing Estate Residential area as shown on Schedule 3, must indicate:

- a. detailed topographic information;
- b. the location of all proposed buildings (or building envelopes) and all proposed *individual on-site water and sewage services*;
- c. the location of all existing and all retained landscape features within the site as well as beyond the site, adjacent to its perimeter; and,
- d. the location of all proposed roads and utilities.

(Amended by By-Law Number 2013-98, OPA Number 16)

Small-Scale Industrial and Commercial Uses

3.12.19. Small-scale industrial and commercial uses in the Rural Lands designation can provide a modest means of starting a business. The businesses that grow are expected to move to more urban settings. Other businesses may employ local craftspersons or artisans and remain small. New small-scale industrial and commercial uses are allowed by an amendment to the zoning by-law. Such amendments must set out specific limits on use, size, location and number of employees. All new small-scale industrial and commercial uses in the Rural Lands designation are subject to the Site Plan Control By-law in accordance with the *Planning Act*.

a. Small-scale commercial uses may be permitted in the Rural Lands designation provided the uses are limited in size, do not require municipal water or sewer services, and do not have *adverse effects* on adjacent land uses through noise, vibration, reduction of privacy, traffic or other impact or hazard.

b. Small-scale industrial uses may be permitted in the Rural Lands designation provided the uses are limited in size, do not require municipal water or sewer services, and do not have *adverse effects* on adjacent land uses through noise, vibration, reduction of privacy, traffic or other impact or hazard. Small-scale industrial uses will be encouraged to locate adjacent to a similar use. Small-scale industrial uses will be directed away from *sensitive uses*, and in particular will be directed away from Hamlets, waterfront areas, and Estate Residential/residential clusters.

(Amended by By-Law Number 2013-98, OPA Number 16)

(Amended by By-Law Number 2017-57, OPA Number 50)

Loughborough Lake Watershed

3.12.20. The West Basin of Loughborough Lake is classified as an at-capacity lake trout lake by the Ministry of Natural Resources and Forestry and the Ministry of the Environment and Climate Change. The creation of new lots, either by severance or by plan of subdivision, that are within 300 metres of the *high water mark* of this lake, or its tributaries, are prohibited, except where one or more of the following conditions exists:

- the leaching or disposal beds on each new lot are set back at least 300 metres from the shoreline of the lake, or its tributaries, or such that drainage from these beds would flow at least 300 metres to the lake, or its tributaries;

- the leaching or disposal beds on each new lot are located such that they would drain into the drainage basin of another waterbody, which is not at capacity;

- there is a need to separate existing, habitable dwellings each having *individual on-site water and sewage services*, provided that the land use would not change; and,

- the proposed new use has a scale and density that is less than currently exists on site and can demonstrate a net reduction of phosphorus loading on the lake. Prior to any *development* being approved, an *environmental impact assessment* and/or lake capacity assessment must be completed to the satisfaction of the municipality and the Ministry of the Environment and Climate Change. The studies must, among other things, provide recommendations on implementation tools related to hydrogeology, soils and vegetation matters on site.

(Amended by By-Law Number 2013-98, OPA Number 16)

(Amended by By-Law Number 2017-57, OPA Number 50)

3.14 Rural Commercial

Outside the *Urban Boundary* shown on Schedule 2 of this Plan, there exist limited areas of commercial *development* that are generally of a larger scale that serve the local rural/agricultural community or the travelling public. These limited uses are designated as Rural Commercial on Schedule 3 of this Plan.

(Amended by By-Law Number 2017-57, OPA Number 50)

Goal:

To support the rural and agricultural communities, as well as the tourism industry, in providing a limited amount of larger scale commercial *developments* in appropriate locations.

Rural Commercial Use

- 3.14.1.** Small scale commercial uses in the Rural Lands designation are permitted under the policies of Section 3.12.19 of this Plan. Existing larger scale rural commercial uses are designated Rural Commercial on Schedule 3 of this Plan. Any new larger scale commercial use proposed outside of the *Urban Boundary* will be subject to an amendment to this Plan as a Rural Commercial designation, as set out in the following policies.

(Amended by By-Law Number 2013-98, OPA Number 16)

(Amended by By-Law Number 2017-57, OPA Number 50)

Rural Commercial Designation

- 3.14.2.** The Rural Commercial designation is intended for larger scale commercial uses that are the primary use of the property, or that may have impacts on adjacent land uses through noise, vibration, reduction of privacy, increase in traffic, or other impact or hazard.

Permitted Uses

- 3.14.3.** The Rural Commercial designation is intended to permit a variety of larger scale *recreational*, social and cultural uses and facilities, including golf courses, marinas, greenhouse operations, overnight accommodations, and seasonal campgrounds. Retail and office uses that are clearly an *accessory use* to the primary rural commercial uses are also permitted. Other types of retail and service commercial uses are intended to locate within a Hamlet or within the *Urban Boundary*.

Agriculture-related Uses

- 3.14.4.** *Agriculture-related uses and on-farm diversified uses* are permitted within the Prime Agricultural Area and Rural Lands designations and do not need to be placed in a separate Rural Commercial designation.
(Amended by By-Law Number 2017-57, OPA Number 50)

Designation and Zoning

- 3.14.5.** Proposals for new rural commercial uses, if approved, will be placed in an appropriate Rural Commercial designation and zoning category, or may be limited to a site-specific zoning provision.

Zoning

- 3.14.6.** Provisions for suitable setbacks, areas of landscaped open space, adequate parking and loading areas, regulation of outside storage locations and materials, and other matters as appropriate, are to be established in the zoning by-law.

Additions or Expansions

- 3.14.7.** Additions or expansions that require land to be added to existing large-scale rural commercial uses are discouraged, and any such proposal must be considered through an Official Plan amendment that addresses its impact on agricultural operations, conformity with the *minimum distance separation formulae*, and the Ministry of the Environment and Climate Change D-1 and D-6 Guidelines.

Criteria for New Development

- 3.14.8.** Any proposal for a new or expanded Rural Commercial designation will be assessed subject to the following considerations and provisions:
- a.** the location, wherever possible, must be on the least productive agricultural lands and on sites that will not hinder agricultural operations;
 - b.** a minimum lot size of one hectare must be provided, permitting adequate access, off-street parking, loading, *individual on-site water services* and *individual on-site sewage services*, setbacks, and buffering;
 - c.** the location and use must have no *negative impacts* on *natural heritage features and areas*, as proven through an *environmental impact assessment*, described in Section 6;
 - d.** a *residential unit* as an *accessory use* may be permitted on the same lot, provided that no severance is created and such residential use meets the *minimum distance separation formulae* and the Ministry of the Environment and Climate Change requirements for *sensitive uses* (D-6 Guideline); and
 - e.** a market justification study and impact assessment may be required that demonstrates to Council's satisfaction that:
 - the type and size of the proposed use are warranted;

- the planned function of existing or approved commercially designated sites in the *Urban Boundary* will not be undermined;
- the proposed use cannot be accommodated on or is not suitable on existing commercially designated sites in the *Urban Boundary*; and
- the proposal meets other criteria as deemed appropriate by the City.

(Amended by By-Law Number 2017-57, OPA Number 50)

Consents and Minimum Lot Area

- 3.14.9.** Lot creation by consent for a new rural commercial use may be permitted, subject to the consent policies of Section 9.6 of this Plan, and provided that the new lot will require a minimum lot size of one hectare and maintain as much of the remnant parcel as is possible for rural and *agricultural uses*.

5.A Source Water Protection

Source water is the water in lakes, rivers, and underground aquifers that is used to supply drinking water. It is in the community's interest to protect the quantity and quality of source water to ensure that safe potable drinking water is available for the long term.

Contamination cannot always be cleaned up and water treatment cannot always remove all contaminants. Contamination can ruin a water source forever.

Having clean and plentiful sources of water also supports tourism and *recreation* and provides habitat for fish and wildlife.

The Cataraqui Source Protection Plan (effective April, 2015) was written to fulfill requirements of the *Clean Water Act*, 2006 and Ontario Regulation 287/07. The Cataraqui Source Protection Plan (SPP) covers the Cataraqui Source Protection Area including the City of Kingston. The SPP contains policies intended to mitigate or eliminate threats to source water. Source water protection policies in this Plan are consistent with the intent of policies included in the Cataraqui Source Protection Plan. For clarification and policy detail, the Cataraqui Source Protection Plan must be referenced. The terms used in this section carry the same meaning as those in the Cataraqui Source Protection Plan and the *Clean Water Act*, 2006.

In the event of conflict between long-term protection of drinking water sources and other considerations, drinking water shall take priority.

(Added by By-Law Number 2017-57, OPA Number 50)

Goal:

To protect the *quantity and quality of water* and more specifically source water over the long term.

(Added by By-Law Number 2017-57, OPA Number 50)

Policies:

Vulnerable Areas

- 5.A.1.** Under the *Clean Water Act*, 2006, a vulnerable area is defined as a wellhead protection area, an *intake protection zone*, a *significant groundwater recharge area* or a *highly vulnerable aquifer*.

Wellhead protection areas (WHPAs) and *intake protection zones* (IPZs) for municipal water sources are shown on Schedule 11-B and include the Cana Wellhead Protection Area, the Fairfield *Intake Protection Zone*, the Point Pleasant *Intake Protection Zone*, and the King Street (formerly Kingston Central) *Intake Protection Zone*. Areas of vulnerability including *Highly Vulnerable Aquifers* (HVAs) and *Significant Groundwater Recharge Areas* (SGRAs) are shown on Schedule 11-B. Particular activities that have the

potential to contaminate sources of drinking water are called “drinking water threats”. The zoning by-law shall prohibit or restrict land uses that constitute drinking water threats, as applicable in vulnerable areas.

(Added by By-Law Number 2017-57, OPA Number 50)

Cana Wellhead Protection Area

- 5.A.2.** The Cana Wellhead Protection Area is considered to be a highly vulnerable water source. WHPA vulnerability scoring is illustrated on Schedule 11-B to this Plan. The following policies are intended to protect this source:
- a.** Within the portions of the Cana Wellhead Protection Area, new land uses that would pose significant drinking water threats, such as waste disposal sites and wastewater treatment facilities, are prohibited;
 - b.** Within the Cana Wellhead Protection Area, proposals for new *development*, or the expansion of existing *development*, are required to incorporate measures to adequately mitigate and manage any risk to source water posed by the proposed *development*, to the satisfaction of the City in consultation with the Cataraqui Source Protection Authority;
 - c.** Within Cana WHPA-A and portions of WHPA-B with a vulnerability score of 10, all applications for *development* for uses which include fuel storage of more than 250 litres must be accompanied by a Notice from the Risk Management Official, as per s. 59 of the *Clean Water Act*; and,
 - d.** Within Cana WHPA-A, WHPA-B, and WHPA-C, all applications for *development* for all uses except residential uses must be accompanied by correspondence from the Risk Management Official, as per s. 59 of the *Clean Water Act*.

(Added by By-Law Number 2017-57, OPA Number 50)

Intake Protection Zones

- 5.A.3.** Within the *intake protection zones*, proposals for new *development*, or the expansion of existing *development* should incorporate measures to adequately mitigate and manage any risk to source water posed by the proposed *development*, to the satisfaction of the City in consultation with the Cataraqui Source Protection Authority.

(Added by By-Law Number 2017-57, OPA Number 50)

- 5.A.4.** Within the *intake protection zones*, the City will continue its work to improve stormwater management including during road reconstruction projects and implementing the Pollution Control Plan Update (2010) and the Sewage Infrastructure Master Plan (2010), as amended.

(Added by By-Law Number 2017-57, OPA Number 50)

Highly Vulnerable Aquifers and Significant Groundwater Recharge Areas

- 5.A.5.** Within the *Highly Vulnerable Aquifers* and *Significant Groundwater Recharge Areas* shown on Schedule 11-B, proposals for new *development*, or the expansion of existing *development* for land uses that constitute a drinking water threat may be required to incorporate measures to adequately mitigate and manage any risk to source water posed by the proposed *development*, to the satisfaction of the City in consultation with the Cataraqui Source Protection Authority.

(Added by By-Law Number 2017-57, OPA Number 50)

Unstable Bedrock (Karst)

- 5.A.6.** Karst formations can create a direct link between contaminants at the surface and the underlying aquifer. To manage this risk:
- a.** the City, in consultation with the Cataraqui Region Conservation Authority, may require a karst assessment to determine what, if any, additional risk management measures may be required as a condition of approval for a proposal for *development* in any karst features.
 - b.** the requirement for a karst assessment may be waived if the proponent for the *development* can demonstrate, through a site specific investigation, that the site does not exhibit any karst features.

Karst assessment requirements are also linked to protection of health and safety as per Section 5.8.

(Added by By-Law Number 2017-57, OPA Number 50)

Application and Development Process

- 5.A.7.** Applicable study requirements:
- a.** New *development* and/or expansions to existing *development* associated with non-residential planning applications located within vulnerable areas identified on Schedule 11-B may be subject to Site Plan Control. Requirements may include a 'Risk Reduction Plan' to identify measures to be incorporated into the development for land uses that involve the storage or manufacture of potential contaminants where it would constitute a drinking water threat. The Risk Reduction Plan must be completed to the satisfaction of the City.
 - b.** The 'Risk Reduction Plan' requirement in **a.** may be waived for a Schedule 11-B property if a Hydrogeological Sensitivity Study prepared by a qualified professional geoscientist or engineer and provided to the satisfaction of the City demonstrates that the subject lands do not exhibit the characteristics of a *highly vulnerable aquifer* or a *significant groundwater recharge area*.

(Added by By-Law Number 2017-57, OPA Number 50)

Transport Pathway Notification

- 5.A.8.** Section 27(3) of Ontario Regulation 287/07 (General) also accounts for municipal drinking water supplies and designated vulnerable areas. The City must provide notice to the Cataraqui Source Protection Authority and the Cataraqui Source Protection Committee upon receiving an application for approval of a proposal that may result in the creation or modification of a transport pathway in a wellhead protection area or *intake protection zone*. A transport pathway can be a natural or human-made passage where water can flow to a drinking water intake or well (e.g. sewer, storm sewer, ditch, utility trench, etc.).

(Added by By-Law Number 2017-57, OPA Number 50)

New Drinking Water Systems

- 5.A.9.**
- a.** New municipal drinking water systems could result in existing land uses becoming *significant* drinking water threats.
 - b.** The establishment of new municipal drinking water systems, as defined under the *Safe Drinking Water Act*, 2002, as amended, will require an amendment to the Cataraqui Source Protection Plan and this Official Plan.

(Added by By-Law Number 2017-57, OPA Number 50)

9.3 Official Plan Amendments

Amendments to this Plan

- 9.3.1.** As required by the *Planning Act*, any amendment to this Plan must be consistent with any Provincial Policy Statement in effect on the day of the decision, and should any provincial plan come into effect for this municipality, any decision must also conform with, or not conflict with provincial plans that are in effect.

(Amended by By-Law Number 2017-57, OPA Number 50)

Criteria

- 9.3.2.** Every application for amendment to this Plan will be evaluated on the basis of the following general considerations and any others that are pertinent to the particular application:
- a.** the conformity of the proposed amendment to the general intent and philosophy of this Plan, particularly the vision and planning principles, including *sustainability*, *stability* and *compatibility* outlined in Section 2, and consistency with provincial policy;
 - b.** the availability and suitability of land already designated for the proposed use, and the need for (or market feasibility of) the proposed use;
 - c.** the *compatibility* of the proposal, or the adequacy of proposed mechanisms for achieving *compatibility*, with adjacent and planned uses, including *cultural heritage resources* and *natural heritage features and areas*;
 - d.** the potential of the proposal to cause instability within an area intended to remain stable;
 - e.** the ability of the City's *infrastructure* to accommodate the proposal without costly expansion, upgrading, or required deferral of other planned *infrastructure* improvements in other areas of the City;
 - f.** the financial implications (both costs and revenues) to the City;
 - g.** the degree to which approval of the amendment would establish an undesirable precedent; and,
 - h.** consistency with the Provincial Policy Statement and provincial legislation and guidelines.

(Amended by By-Law Number 2017-57, OPA Number 50)

Required Studies

- 9.3.3.** The City may require an applicant to submit expert studies to assist in the evaluation of the proposed amendment, and may also require the applicant to pay for, or contribute to the cost of peer review of such studies on the City's behalf, if necessary. The studies and assessments which may be required by

the City to assess a *development* application are set out in Section 9.12 of this Plan and must be prepared by *qualified persons*.

Public Meeting

- 9.3.4. Amendments to this Plan will be made only after public notice and consultation as required by the *Planning Act* and consultation with affected authorities or agencies.

9.4 Delegated Authority & Advisory Committees

Delegation of Authority

- 9.4.1. The City may delegate its authority for various approval or advisory functions in accordance with the provisions of enabling legislation including the *Planning Act*, the *Municipal Act*, and the *Ontario Heritage Act*. Without limiting the City's authority to add, revise or abolish Committees pursuant to legislation, the City has established a number of Committees and mandates as noted in the following sections.

Planning Committee

- 9.4.2. A Planning Committee has been established to make recommendations to Council on planning applications, studies and matters, and to hold public meetings as required by the *Planning Act*. Additional consultation is afforded through a Planning Advisory Committee described in Section 9.12.5.

(Amended by By-Law Number 2017-57, OPA Number 50)

Committee of Adjustment

- 9.4.3. A Committee of Adjustment has been established by Council in accordance with provisions of the *Planning Act* to make decisions on specific applications. The *Planning Act* requires that decisions on applications be consistent with provincial policy in effect at the time of the decision, with respect to the following:
- a. applications to allow a minor variance to the zoning by-law or an interim control by-law;
 - b. applications for the extension or enlargement of a legal non-conforming use;
 - c. applications to allow a change in the use of land or buildings from one legal non-conforming use to another use, that in the opinion of the Committee is similar to the existing legal non-conforming use or that is more *compatible* with the uses permitted by the by-law;
 - d. applications to grant a consent (land severance), as set out in Section 9.6; and,

- e. partial discharge of mortgage in accordance with Section 9.6.10.

(Amended by By-Law Number 2017-57, OPA Number 50)

Heritage Kingston

- 9.4.4.** Heritage Kingston has been appointed in accordance with the *Ontario Heritage Act*. The committee's role is advisory and consultative. The mandate and activities of the committee should address the broad array of opportunities and projects presented by Kingston's heritage and intangible history. Accordingly, the committee membership should reflect a broad range of community perspectives. The committee will undertake the following tasks in accordance with the provisions of Section 7:
- a. assist the City Clerk in maintaining an inventory of properties and structures having cultural heritage value or interest;
 - b. advise Council on designations under the *Ontario Heritage Act* of real properties having cultural heritage value or interest;
 - c. advise Council on areas to be designated as Heritage Conservation Districts under the *Ontario Heritage Act*;
 - d. review plans referred to it by the City with respect to applications to alter or demolish structures or buildings or elements that have been designated under the *Ontario Heritage Act* and advise Council with respect to such proposals;
 - e. provide advice to the planning process where heritage buildings are located on or adjacent to properties that are the subject of *development* applications, including, but not limited to, amendments to the official plan and zoning by-laws, severance and minor variance applications, and site plan control review;
 - f. support the implementation of the Kingston Culture Plan;
 - g. advise Council respecting best practices in the museums sector related to collections, exhibitions and programming for the two civic museums (MacLachlan Woodworking Museum and Pump House Steam Museum) and the broader Kingston museums community;
 - h. advise Council on the management and development of the civic collection; and
 - i. promote public understanding of local history and appreciation of all *cultural heritage resources*.

(Amended by By-Law Number 2017-57, OPA Number 50)

Municipal Accessibility Advisory Committee

- 9.4.5.** The Municipal Accessibility Advisory Committee has been established by Council in accordance with provisions of the *Accessibility for Ontarians with Disabilities Act* with the responsibility of providing advice on the implementation of that legislation.

9.5 By-Laws

Zoning

- 9.5.1.** It is intended that this plan will be implemented through a zoning by-law(s) in accordance with the *Planning Act*.

(Amended by By-Law Number 2017-57, OPA Number 50)

- 9.5.2.** The zoning by-law(s) will regulate the permitted use of land and may provide standards for such matters as:
- a.** permitted principal, *complementary* and *accessory uses*;
 - b.** lot area and dimensions;
 - c.** number of structures and buildings on a lot;
 - d.** minimum and maximum floor area of buildings;
 - e.** setbacks for buildings and structures, including setbacks for the protection of natural heritage features;
 - f.** minimum and maximum density as measured by *floor space index* or by means of units per hectare;
 - g.** minimum and maximum lot coverage (portion of a site occupied by a building or structure);
 - h.** minimum and maximum height of a building or structure and provisions tied to an angular plane;
 - i.** requirements for parking for vehicles and bicycles or loading areas and spaces; and,
 - j.** requirements for landscaped open space or *amenity areas*.

(Amended by By-Law Number 2017-57, OPA Number 50)

Lots of Record

- 9.5.3.** The zoning by-law will provide conditions for the potential *development* of lots of record (lots legally existing at the time of passage of the zoning by-law) that do not conform to the size or other requirements of the zoning by-law.

Non-Conforming Uses

- 9.5.4.** It is the intent of the City, wherever possible, to minimize the extent of non-conforming uses created in the zoning by-law.

- 9.5.5.** Under certain circumstances, uses legally existing at the time of adoption of this Plan that do not conform to this Official Plan may continue to be recognized by the zoning by-law, if the City is satisfied with respect to the following criteria:
- a.** the use has achieved an acceptable level of *compatibility* with existing and planned uses;
 - b.** the long term continuation will not detract from the general intent of this Plan;
 - c.** the use does not involve hazardous activities or substances, and does not substantially contribute to water or air pollution;
 - d.** the use does not perpetuate or create hazardous access or traffic conditions;
 - e.** that undue hardship does not result from zoning in conformity with this Plan; and,
 - f.** consideration of supporting representation by residents or affected property owners.

(Amended by By-Law Number 2017-57, OPA Number 50)

Non Conforming Use

- 9.5.6.** Any land use legally existing at the date of approval of the implementing zoning by-law that does not conform to the policies or schedules of the Plan is deemed a non-conforming use and should cease to exist in the long run.

(Amended by By-Law Number 2017-57, OPA Number 50)

Amendments to the Zoning By-law

- 9.5.7.** Amendments to the zoning by-law will be made only after public notice and consultation as required by the *Planning Act* and consultation with affected authorities or agencies.

Application Requirements

- 9.5.8.** When considering a privately-initiated application to amend the zoning by-law, the City may require specific or representative plans be submitted, or that certain studies be completed so that the City is able to assess the proposal more thoroughly. The additional information and studies that may be required are detailed in Section 9.12 of this Plan.

Planning Committee/Council Considerations

- 9.5.9.** When considering an application to amend the zoning by-law, the Planning Committee and Council will have regard to such matters as:
- a.** conformity of the proposal with the intent of the Official Plan policies and schedules;

- b.** *compatibility* of the proposal with existing uses and zones, *sensitive uses*, the *natural heritage system*, *cultural heritage resources*, and *compatibility* with future planned uses in accordance with this Plan;
- c.** *compatibility* of proposed buildings or structures with existing buildings and structures, with zoning standards of adjacent sites, with any future planned standards as provided in this Plan, and with any urban design guidelines adopted by the City for the area;
- d.** the extent to which the proposal is warranted in this location and the extent to which areas zoned for the proposed use are available for *development*;
- e.** the suitability of the site for the proposal, including its ability to meet all required standards of loading, parking, open space or *amenity areas*;
- f.** the suitability of the density relative to the neighbourhood and/or district, in terms of units per hectare, bedrooms per hectare, *floor space index*, and/or employees per hectare, as applicable;
- g.** the impact on municipal *infrastructure*, services and traffic;
- h.** comments and submissions of staff, agencies and the public; and,
- i.** the degree to which the proposal creates a precedent.

Conditional Zoning

- 9.5.10.** Council may, in conjunction with a zoning by-law passed pursuant to Section 34 of the *Planning Act*, impose one or more prescribed conditions on the use, erection or location of buildings or structures, and may require an owner of land to which the by-law applies to enter into an agreement with the City relating to the condition(s). This agreement may be registered against the lands to which it applies, and the City may enforce the agreement against the owner and any and all subsequent owners of the land.

Relief from Parking

- 9.5.11.** As established by the *Planning Act*, the City may enter into an agreement with any landowner or building occupant to exempt such owner or occupant from the provision of parking required by a zoning by-law in return for the payment of money and such agreement may be registered on title, and considered a tax under the *Municipal Act*. The City will keep such revenue in a separate fund under the conditions required by the *Municipal Act*.

Community Planning Permit System

- 9.5.12.** The City may introduce a Community Planning Permit System as an alternative method to zoning for certain types of land use or certain areas of the City. The Community Planning Permit System may combine zoning approval with site plan control review or other processes required by this Plan.

(Amended by By-Law Number 2017-57, OPA Number 50)

Committee of Adjustment

- 9.5.13.** In certain circumstances, it may be desirable to grant the extension or enlargement of a non-conforming use as provided by the *Planning Act*. When reviewing an application for such extension or enlargement, the Committee of Adjustment will be satisfied that the legal non-conforming use continued to the date of application to the Committee and that the application would not extend such use beyond the area and site owned or used on the day of passage of the implementing zoning by-law for this Plan, as well as with the following considerations:
- a.** consistency with provincial policy in effect at the time of the decision, and general conformity of the proposal with the intent of the policies and schedules of this Plan;
 - b.** *compatibility* of the proposal with existing uses and zones, the *natural heritage system*, *cultural heritage resources*, and with future planned uses in accordance with this Plan;
 - c.** *compatibility* of proposed buildings or structures with existing buildings and structures, with zoning standards of adjacent sites, with any future planned standards as provided in this Plan, and with any urban design guidelines adopted by the City for the area or for the type of *development*;
 - d.** the extent to which the proposal is warranted in this location and the extent to which areas zoned for the proposed use are available for *development*;
 - e.** the suitability of the site for the proposal, including its ability to meet all usual standards of parking for vehicles and bicycles, open space or *amenity areas* as well as the lack of any potential for noise, odour, traffic conflict or other nuisance from the proposal;
 - f.** the impact on municipal *infrastructure*, services and traffic;
 - g.** comments and submissions by staff, agencies and the public; and,
 - h.** the degree to which the proposal may inhibit conforming uses or creates a precedent.

(Amended by By-Law Number 2017-57, OPA Number 50)

Extension or Enlargement of Non-conforming Use

- 9.5.14.** No extension or enlargement of a non-conforming use will be granted by the Committee of Adjustment if traffic, noise or operating characteristics create or will increase *adverse effects* or nuisance factors which cannot be suitably mitigated, or if the proposal is within a land use designation that expressly prohibits such use.
- 9.5.15.** The Committee of Adjustment may approve an application to extend or enlarge a non-conforming use to another use for such time and subject to such conditions as the Committee deems appropriate.

- 9.5.16.** Where a non-conforming use is clearly incompatible or a hazard to adjacent uses, or interferes with the implementation of this Plan, Council may acquire the property to terminate the use or may exchange land to provide for the relocation of the use to a more appropriate area.
(Amended by By-Law Number 2017-57, OPA Number 50)

- 9.5.17.** In some circumstances it may be appropriate to grant a change from one non-conforming use to another if the Committee of Adjustment is satisfied that:
- a.** the proposed use is similar to the existing use or more in conformity with the planned use(s);
 - b.** the site or building conditions will be substantially improved by the proposed change of use and can adequately accommodate the proposal;
 - c.** the proposed use is generally *compatible* with surrounding uses and can meet parking for vehicles and bicycles and other site standards of the general area with accessibility considerations as well as those standards necessary for the proposed use;
 - d.** the proposed use does not create any noise, traffic or operational nuisance that cannot be mitigated to an acceptable level;
 - e.** municipal *infrastructure*, roads and access conditions can accommodate the proposed use; and,
 - f.** the proposed use will not negatively impact surrounding lands or buildings or inhibit them from developing for their intended use.

(Amended by By-Law Number 2017-57, OPA Number 50)

Minor Variances

- 9.5.18.** The Committee of Adjustment may grant a minor variance from the provisions of the zoning by-law or any other by-law that implements the Official Plan, if it is satisfied that the application meets the tests of the *Planning Act*. When reviewing an application for a minor variance the Committee of Adjustment must be satisfied that:
- a.** the general intent and purpose of the Official Plan are maintained;
 - b.** the general intent and purpose of the by-law being varied are maintained;
 - c.** the variance is minor in nature; and,
 - d.** the variance is desirable for the appropriate *development* or use of the land, building, or structure.
- 9.5.19.** In considering whether a variance is desirable for the appropriate *development* or use of the land, building or structure, the Committee of Adjustment will have regard for, but will not necessarily be limited to the following:
- a.** the proposed *development* meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of this Plan;

- b.** the proposed *development* will be *compatible* with surrounding uses, buildings or structures and *development* standards associated with adjacent properties, and if necessary, incorporate means of alleviating *adverse effects* on abutting land uses as recommended in Section 2.7 of this Plan;
- c.** the ability of the site to function in an appropriate manner in terms of access, parking for vehicles and bicycles or any other matter and means of improving such function including considerations for universal accessibility;
- d.** the conformity of the proposal to any applicable urban design policies endorsed by Council, particularly if the site includes or could impact a *built heritage resource* or is within a Heritage District;
- e.** if the site is designated under the *Ontario Heritage Act*, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the *Ontario Heritage Act* or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a heritage impact statement may be required to assist staff to determine if the resulting *development* is desirable;
- f.** the resulting *development* has adequate *municipal water and sewage services* within the *Urban Boundary*, or is capable of providing *individual on-site water and sewage services* outside the *Urban Boundary*;
- g.** whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law;
- h.** the Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a minor variance including any reasonable requirements, recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application; and,
- i.** the degree to which such approval may set an undesirable precedent for the immediate area.

The City will maintain a registry of all minor variance applications and all applicable Committee of Adjustment and Ontario Municipal Board Decisions.

(Amended by By-Law Number 2017-57, OPA Number 50)

Temporary Use By-law

- 9.5.20.** The City may pass by-laws in accordance with the *Planning Act* to permit the temporary use of land, buildings or structures on a site (where such use would normally be prohibited by the by-law) for a period of up to 3 years, or up to 20 years for a *garden suite* as defined in the *Planning Act*, and may grant extensions of such a temporary use by-law for periods of up to 3 years each. In the case of *garden suites*, an owner may be required to enter into an agreement with the City in accordance with provisions of the *Planning Act*. Temporary use by-laws shall be passed in accordance with applicable policies of this Official Plan to ensure no long term *adverse effects* from the proposed temporary use.

(Amended by By-Law Number 2017-57, OPA Number 50)

Holding By-laws

- 9.5.21.** The City may pass a holding by-law pursuant to the *Planning Act* that will include the symbol “H” in situations where the future use of the land (or buildings or structures) has been determined but where imminent *development* would be premature until various conditions are met, as set forth in the holding by-law, including any of the following:
- a.** municipal roads, services and utilities have been extended or improved, or servicing capacity has been added or allocated to enable *development*;
 - b.** satisfactory financial arrangements have been made to enable *development*;
 - c.** phasing of the *development* has been determined;
 - d.** studies have been completed (and may also be peer reviewed) to the satisfaction of the municipality to justify or support initiation of *development*;
 - or,
 - e.** conditions arising from any study, or conditions which address any other impediment to *development* have been satisfactorily met, or are deemed by the City to be no longer relevant.
- 9.5.22.** The City will pass an amending by-law to remove the “H” when the circumstances have been achieved or conditions set out in the holding by-law have been fulfilled.

Interim Control

- 9.5.23.** Where the City has by resolution or by-law determined that a study or review of land use policies in a certain area is necessary, it may pass an interim control by-law for a period of time as specified in the by-law prohibiting uses of land (or buildings and structures) except for uses specified in the interim control by-law. Notice of an interim control by-law is not required to be given prior to its passage but notice must be given within 30 days after its passage.

Extension of Interim Control By-law

- 9.5.24.** The City may amend the interim control by-law to extend the period of time provided that the total period does not exceed two years from the date of passage of the original by-law and notice is provided as stated above. However, in accordance with the *Planning Act*, an interim control by-law will remain in effect where there has been an appeal of the land use by-law which has been adopted by the City after completion of the study.

Height and Density Bonus

- 9.5.25.** The City may approve a by-law authorizing an increase in height or density beyond that allowed in the zoning by-law pursuant to the *Planning Act*, in

return for facilities, services or matters benefiting the public, including the following:

- a. providing a wide range of clearly specified and designed housing types, including *affordable* housing and housing for seniors and individuals with special needs;
- b. providing parkland dedication beyond what is already required by this Plan;
- c. protecting features of the *natural heritage system*, such as *woodlands*, beyond the parkland dedication requirements of the *Planning Act*;
- d. improving access to public transit facilities;
- e. providing universally accessible public areas, pathways, and connections to external public pathways/trail systems;
- f. providing public and/or underground parking;
- g. providing community and open space facilities such as small parks, day care centres, community centres, *recreation* facilities, cultural facilities;
- h. *conserving cultural heritage resources*;
- i. protecting or enhancing *significant* views;
- j. providing public art;
- k. providing green technology and sustainable architecture and alternative construction methods such as “green roofs” and LEED_R certified buildings;
- l. providing streetscape improvements in accordance with Council-endorsed documents such as the Downtown Action Plan and that also enhance accessibility and wayfinding; and,
- m. including local improvements identified in community design plans, *community improvement plans*, secondary plans, capital budgets or other implementing plans or studies.

(Amended by By-Law Number 2017-57, OPA Number 50)

- 9.5.26.** Each proposal for an increase in height and density must be assessed on a case by case basis, and be supported by such additional information and studies as deemed appropriate by the City, in order that Council ensures that:
- a. the *development* resulting from the application of increased height and density does not impose *adverse effects* on neighbouring uses, and meets the general intent and purpose of the land use compatibility principles in Section 2.7 and the urban design principles as outlined in Section 8 of this Plan;
 - b. the *development* resulting from the application of increased height and density ensures that identified *cultural heritage resources* are *conserved*, as demonstrated through the completion of a *heritage impact statement* where required by the City;
 - c. the proposed increased height and density provision supports the strategic planning approach to guide and respond to *development* applications for

change in areas of the City, as outlined in the policies of Section 2.6 of this Plan regarding stable areas and areas in transition;

d. there are adequate municipal services including water, sanitary sewers, stormwater management facilities and community services;

e. the transportation system can accommodate the increase in density;

f. the site is suitable in terms of size and shape, to accommodate the necessary on-site functions such as parking, landscaping and *recreational* facilities of universal design;

g. there is a reasonable planning relationship between the community benefits and the proposed *development*;

h. the value of the increased height and density is appraised by the developer and the value of the benefit to be provided is assessed compared to the increased value to the developer, so that there is an equitable relationship between the established value of the increased height and density and its value to the community; and,

i. the *development* must constitute good planning and be consistent with the policies of this Plan.

(Amended by By-Law Number 2017-57, OPA Number 50)

9.5.27. Community benefits may be provided off-site, if they are located in close geographic proximity to the subject property. It must be demonstrated that the community benefits will have a positive impact on the immediate area experiencing the increased height or density provision.

9.5.28. Community groups will be consulted on the *development* application and the proposed benefit as part of the statutory public consultation process.

9.5.29. The owner will be required to enter into an agreement relating to the provision of facilities, land, or matters for which the bonus has been established in the by-law.

9.5.30. The increase in density or height will be approved through an amendment to the zoning by-law.

Site Plan Control

9.5.31. The entire area within the City of Kingston is designated as a Site Plan Control Area. The site plan control by-law, as amended from time to time under Section 41 of the *Planning Act*, affects all or part of the Site Plan Control Area. Applications submitted under this by-law will be subject to the provisions of the by-law, and any guidelines prepared by the City to guide its implementation. Council may deem certain types of *development* exempt from site plan control review.

- 9.5.32.** Individual land use designations in this Plan establish criteria for the review of site plan control applications. Through the review of staff and agency circulation and consultation, the submission of required plans and any additional information and studies as detailed in Section 9.12 of this Plan, and the entering into of site plan control agreements, the City will use the process of site plan control review to:
- a.** provide a safe, functional, and visually attractive environment;
 - b.** encourage proposed *development* to relate compatibly to the scale, character and siting of abutting *development*;
 - c.** minimize impacts on abutting uses;
 - d.** deliver universal accessibility to community facilities and services such as transit;
 - e.** provide security, convenience and amenity equitably for all people;
 - f.** provide for safe access, parking and loading for vehicles and all forms of *active transportation* devices;
 - g.** provide a high standard of landscape amenity with consideration for accessibility, wayfinding and buffering of service areas while retaining natural features wherever possible;
 - h.** provide for control of stormwater and secure necessary service or utility easements and road widenings, as referenced in Section 4.6 of this Plan;
 - i.** require sustainable features to the extent that provincial legislation allows; and,
 - j.** provide for vaults, central storage and collection areas and other facilities and enclosures of universal design for the storage of garbage and other waste materials.

(Amended by By-Law Number 2017-57, OPA Number 50)

- 9.5.33.** Plans showing all buildings and structures to be erected and all facilities and works, including facilities incorporating accessible design principles or standards and provisions for universal access, to be provided in conjunction with the *development*, are required to be consistent with the provisions of Section 41 of the *Planning Act*. Drawings showing plan, elevations and cross-section views may be required for all buildings to be erected including buildings to be used for residential purposes, including residential buildings containing fewer than 25 *residential units*.

(Amended by By-Law Number 2017-57, OPA Number 50)

- 9.5.34.** The above-noted drawings must be sufficient to display:
- a.** the massing and conceptual design of the proposed building;
 - b.** the relationship of the proposed building to adjacent buildings, roads, and exterior areas, including parking for vehicles and *active transportation* devices and loading areas and access thereto;

- c. the provisions of interior walkways, stairs, elevators and escalators to which the public has access from roads, open spaces and interior walkways in adjacent buildings with consideration for universal design;
- d. matters relating to exterior design, including without limitation the character, scale, appearance and design features of buildings, the illumination of buildings, parking areas, loading areas, landscaped areas, signage, access and accessibility, and their sustainable design;
- e. sustainable design elements such as trees, shrubs, hedges, plantings or other ground cover, permeable paving materials, street furniture, curb ramps, waste and recycling containers, and *active transportation* parking facilities on any adjoining road under the City's jurisdiction; and,
- f. facilities incorporating accessible design principles or standards.

(Amended by By-Law Number 2017-57, OPA Number 50)

- 9.5.35.** Within the Site Plan Control Area for all classes of buildings, no building permit will be issued until site plan control approval has been secured. Sunset clauses are normally added to the approval of a site plan control agreement indicating that approval will lapse unless construction commences within two years. Where approved conditions have been fulfilled, the municipality may issue a conditional approval in order to allow foundation work to proceed.

Property Maintenance and Occupancy

- 9.5.36.** The City will regulate property standards through its Maintenance and Occupancy By-law and the Property Standards By-law. These will continue to provide minimum standards for such matters as:
- a. structural maintenance, building access, and safety issues;
 - b. sewage and drainage;
 - c. plumbing, heating and electricity;
 - d. garbage disposal, pest control, and cleanliness;
 - e. clearance of weeds, abandoned vehicles, or other discarded materials or equipment from the property;
 - f. maintenance of fences, signs, retaining walls, and *accessory use* buildings and structures; and
 - g. maintenance of driveways, pathways, parking areas for vehicles and *active transportation* and landscaped areas.

(Amended by By-Law Number 2017-57, OPA Number 50)

Signage

- 9.5.37.** The City will regulate the size, location and placement of signs, including accessible accommodation, through passage of a Sign By-law pursuant to the *Municipal Act*.

(Amended by By-Law Number 2017-57, OPA Number 50)

Development Charges and Impost Fees

- 9.5.38.** The City, pursuant to the *Development Charges Act* and *Municipal Act*, may undertake studies to assess the cost of *infrastructure* and facilities related to *development* and will require *development* proponents to contribute to such costs on a proportionate basis as established through provisions of a Development Charges and Impost Fees By-law.

(Amended by By-Law Number 2017-57, OPA Number 50)

Part Lot Control By-laws

- 9.5.39.** The City may pass a by-law to exempt all or portions of lots within a registered plan of subdivision from part lot control so that lots can be further divided to permit *development*, without a consent or further plan of subdivision, in accordance with the *Planning Act*. Such enabling by-law may also be repealed or amended by the City.

Site Alteration By-law

- 9.5.40.** The City's Site Alteration By-law regulates the placing or dumping of fill, the removal of topsoil and the alteration of the grade of land within the municipality, in accordance with the provisions of the *Municipal Act*. The Site Alteration By-law does not apply to site alterations proposed in areas regulated by Ontario Regulation 148/06: Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses, which is administered by the Cataraqui Region Conservation Authority.

(Amended by By-Law Number 2017-57, OPA Number 50)

Tree By-law

- 9.5.41.** The City will continue to enforce and monitor its by-law to prohibit or regulate the destruction or injury of trees within the municipality, in accordance with the provisions of the *Municipal Act*.

(Amended by By-Law Number 2017-57, OPA Number 50)