

**BY-LAW No. Z-5**  
**A ZONING BY-LAW FOR**  
**THE CITY OF FREDERICTON**

PASSED: June 24, 2013

**WHEREAS** Sections 34 and 74 of the *Community Planning Act*, the Council of the City of Fredericton has the authority to enact a Zoning By-law for the City of Fredericton;

**AND WHEREAS** the Council of the City of Fredericton deems it desirable to enact By-law No. Z-5, A Zoning By-law for the City of Fredericton, as hereinafter provided;

**AND WHEREAS** the purpose of this By-law is to regulate the use of land, buildings and structures and delegate certain discretionary powers.

**THEREFORE** the Council of the City of Fredericton enacts as follows:



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## PART I

### 1 Title & Scope

This By-law may be cited as “The Zoning By-law for the City of Fredericton”

#### 1.1 This By-law

- (a) divides the municipality into *zones*;
- (b) prescribes;
  - (i) the purposes for which land, *buildings*, and *structures* in any zone may be used as either main, secondary or accessory *uses*, and
  - (ii) standards to which land use and the placement, erection, alteration and *use of buildings* and *structures* shall conform; and
- (c) prohibits the *use* of land, *building* or *structures* for any other purpose.

1.2 Any reference to “the City” refers to the City of Fredericton.

1.3 Any reference to “Council” refers to the Municipal Council of the City of Fredericton.

1.4 Any reference to "the Building By-law" refers to By-law No. R-1, A Building By-law for the City of Fredericton, and amendments thereto.

1.5 Any reference to "the Subdivision By-law" refers to By-law No. Z-4, A Subdivision By-law for the City of Fredericton, and amendments thereto.

## 2 Operation, Interpretation & Zones

### 2.1 OPERATION

#### 2.1(1) POWERS OF THE DEVELOPMENT OFFICER

**(a) Administration of Zoning By-law**

The Development Officer appointed by Council, or his or her designate, for the City of Fredericton shall be charged with the general administration of this By-law.

**(b) Complete Application**

The Development Officer will ensure that an application is complete by requiring that:

- (i) Requests for variance, *conditional use* or *temporary use* approval include the application fee of \$300.00; Z-5.133
- (ii) Supporting documentation and any necessary information to process the various types of development applications is provided as determined by the Development Officer and/or any information required for a proper review by the Planning Advisory Committee.

Despite Sections 2.1(1)(b)(i) and 2.1(1)(b)(ii), the Development Officer reserves the right not to proceed with any application deemed incomplete from the perspective that there is insufficient information provided to assess the overall impact of the *development* on the subject or adjacent properties.

**(c) Development Officer Variance**

The Development Officer may, subject to terms and conditions that he or she considers fit, permit a reasonable variance from the requirements of the Zoning By-law in accordance with Section 55(2) of the *Community Planning Act*. Z-5.143

If the Planning Advisory Committee has made a decision regarding an application for a variance, the Development Officer cannot use his or her powers to rule on the same application. If the Development Officer makes a decision on a variance application request, the same application cannot be forwarded to the Planning Advisory Committee for a decision.

**(d) PAC-Rendered Decision**

The Development Officer shall not issue a development approval on any application reviewed by the Planning Advisory Committee until the Planning Advisory Committee has rendered a decision, and any conditions required by the Planning Advisory Committee or this By-law have been satisfied.

**(e) Zoning Letters and Fees**

The Development Officer shall ensure that:

- (i) Upon receipt of an application fee in the amount of \$100.00, the Development Officer shall issue a letter of confirmation regarding the zone applied to the property requested. Z-5.87

**2.1(1) POWERS OF THE DEVELOPMENT OFFICER (continued)**

- (ii) Upon receipt of an application fee in the amount of \$100.00, the Development Officer shall issue a letter of confirmation regarding conformity of the *use* of the property with the zone and/or that a review of a survey certificate indicates that the property is in conformity with the standards of a zone. If such a letter is required in less than 5 business days, the application fee is \$200.00.

**(f) Requirement for Additional Information or Study**

If an application to rezone land will increase:

- (i) the allowable residential *density* by 50% or more from that allowed under the existing zone; or
- (ii) the maximum allowable *gross floor area* of a *building* by 50% or more from that allowed under the existing zone,

then additional studies may be required by the Development Officer to confirm that upgrades to the *street* network or other required components of municipal infrastructure (i.e., water, storm water, sanitary or fire flow capacity) are not required.

**(g) Design Review** Z-5.197

An independent design review of a *development* proposal may be required by the Development Officer to ensure general compliance with any applicable built form design guideline policy/document in which case a design review fee of \$1250.00 shall apply.

**2.1(2) POWERS OF THE PLANNING ADVISORY COMMITTEE****(a) Conditional Uses**

- (i) Where *conditional uses* are permitted in this By-law, these *uses* shall be approved by the Planning Advisory Committee and subject to such terms and conditions that may be imposed by the Planning Advisory Committee. The Planning Advisory Committee may prohibit a *conditional use* if it is determined that the applicant cannot reasonably be expected to comply with the terms and conditions imposed.
- (ii) After the Development Officer receives the information required to process an application, a development approval will not be issued until the Planning Advisory Committee has approved the *conditional use* and all conditions or requirements established by the Planning Advisory Committee or this By-law have been satisfied.

**(b) Temporary Uses**

The Planning Advisory Committee, subject to terms and conditions as it considers fit:

- (i) may authorize, for a temporary period not exceeding one year, a *development* otherwise prohibited by this By-law; and
- (ii) may authorize, for an additional temporary period not exceeding one year, a *development* otherwise prohibited by this By-law if the applicant holds an authorization under Section 2.1(2)(b)(i) that is to expire or has expired and an application with respect to the land has been made to amend this By-law; and
- (iii) shall require the termination or removal of a *development* authorized under Section 2.1(2)(b)(i) at the end of the authorized period.

**2.1(2) POWERS OF THE PLANNING ADVISORY COMMITTEE (continued)****(c) Planning Advisory Committee Delegation of Power to Development Officer**

The Planning Advisory Committee:

- (i) may delegate its authority regarding one-year *temporary use* approvals as outlined in Section 2.1.2(b) to the Development Officer, and
- (ii) may authorize a delegate under Section 2.1.2(c)(i) to further delegate his or her authority under Section 2.1.2(c)(i) to any person.

**(d) Making of land subject to terms and conditions**

In any zone, any *development* which is for the purpose of making land in a flood prone or environmentally sensitive area and involves the cutting or filling to a depth or height exceeding 1 metre except where it is directly related to an approved subdivision or building permit, shall be a *conditional use* for which the Planning Advisory Committee may provide terms and conditions or otherwise prohibit the *use* where compliance with terms and conditions cannot be reasonably expected. Z-5.16

**(e) Unsuitable Geology, Location or Topography**

Z-5.59

The Planning Advisory Committee may prohibit the erection of any *building* or *structure* on any *site* where it would otherwise be permitted under this By-law when, in its opinion, the *site* is marshy, subject to flooding, excessively steep or otherwise unsuitable for a proposed purpose by virtue of its geology or topography.

**2.1(3) POWERS OF COUNCIL****(a) Zoning By-law Amendments**

A person who seeks to have this By-law amended:

- (i) shall submit a written and signed application;
- (ii) shall, where the application involves rezoning an area of land from one zone to another, include therewith;
  - (A) a statement as to the ownership thereof; and
  - (B) the signature of at least one owner of each *parcel* of land therein;
- (iii) despite Section 2.1.3(a)(ii), Council may initiate a zoning by-law amendment without the signature of the owner(s) of the *parcel(s)* of land involved in the rezoning, provided that the amendment obtains the support of a majority of the whole Council.
- (iv) shall include such information as may be required by the Development Officer for the purpose of adequately assessing the desirability of the proposal. All applications shall be accompanied by an application fee of \$1,250.00 and Council may return all or part of the fee to the applicant if they choose to withdraw their application prematurely. The fee for a rezoning application that also requires a Municipal Plan amendment is \$1,750.00.

**2.1(3) POWERS OF COUNCIL (continued)****(b) Same or Similar Application**

Unless the Council is of the opinion that there is valid new evidence or change in conditions, where an application under this section has been refused by the Council, no further application may be considered by Council for one year if such application:

- (i) in the case of rezoning, is in respect to the same area of land and is in all significant particulars intended to seek the same zone originally sought or is to obtain the same zoning changes as originally sought; or
- (ii) not being in relation to rezoning is similar to the original application.

**(c) Dilapidated, Dangerous or Unightly Buildings or Structure**

When, in the opinion of Council, a *building* or *structure* is dilapidated, dangerous or unsightly, the Council may;

- (i) require the improvement, removal or demolition of such *building* or *structure* at the expense of the owner thereof; or
- (ii) acquire the *parcel* of land on which such *building* or *structure* is situated.

**(d) Utilities and Infrastructure**

No *building* may be erected unless arrangements, to the satisfaction of the Municipal Council, have been made for the supply of electrical power, water, storm water, sewage, *streets*, or other services or facilities.

**(e) Cash in lieu of parking in the Central Business District**

Council reserves the right to require a developer to pay the municipality a sum of money in lieu of providing such off-street *parking* as may be required in the Central Business District as outlined in Sections 5.2(12)(e) and 5.2(12)(f) of this By-law. Z-5.197

**(f) City Facilities and Sale of Alcohol**

The sale, distribution and consumption of alcohol may occur within or on property or facilities owned or operated by the City of Fredericton subject to such Council approved Policy in effect from time-to-time and the provisions of the *Liquor Control Act* of New Brunswick. Z-5.59

**2.2 INTERPRETATION****2.2(1) CLARIFICATION OF WORDS**

- (a) The word “used” shall include “intended to be used”, “arranged” and “designed”. All other words shall carry their customary meaning except for those defined hereinafter.

**2.2(2) OTHER BY-LAWS, PERMITS AND LICENSES**

- (a) Nothing in this By-law shall relieve any person from the obligation to comply with the requirements of any By-law of the City of Fredericton in force from time to time, or the obligation to obtain any license, permit, authority or approval required under any By-law of the City of Fredericton. In the event of conflict between this By-law and any other By-law (except the Capital City Municipal Plan), the most restrictive By-law shall prevail.

**2.2(3) CALCULATION OF NUMERICAL REQUIREMENTS**

- (a) All numerical requirements in this By-law are provided in metric units of measurement. Imperial units of measurement, where provided, are for user convenience only. Where a discrepancy between metric and imperial measurements occurs, the metric measurement shall prevail.

**2.2(4) MEASUREMENTS**

In this By-law, unless otherwise stated:

- (a) metric fractions of one-half (0.5) or greater must be rounded up to the nearest whole number and fractions of less than one-half (0.5) must be rounded down to the nearest whole number; but
- (b) any fraction must be rounded down to the nearest whole number for the purposes of calculating the maximum number of units allowed on a *lot*;
- (c) regulations in this By-law provided to one decimal place must not be rounded to whole numbers;
- (d) when measuring a required distance between a *property line* and a *building or structure* or between 2 *buildings or structures*, the measurement is made at the least distance between the two;
- (e) all measurements and distances must be made along horizontal planes and not by following the topography or slope of the land;
- (f) the *parking* section identifies additional rules for off-street *parking* and off-street loading regulations, which prevail in that context.

**2.3 ZONES****2.3(1) ZONING MAPS**

- (a) The Zoning Maps are attached hereto as Schedule 11 in Part III of this By-law. These schedules divide the City of Fredericton into zones, for which the regulatory provisions of Parts I and II of this By-law apply.

**2.3(2) PURPOSE STATEMENTS**

- (a) The purpose statement in each zone indicates the general intent of the zone and all aspects of the purpose statement do not need to be satisfied to meet the intent of the zone.

**2.3(3) BOUNDARIES OF ZONES**

Where the boundary of any zone is uncertain, and

- (a) the boundary, as shown on the zoning maps relating to this By-law, substantially follows a *street*, lane, railway right-of-way or trail, the centre line of such feature is the boundary;
- (b) the boundary, as shown on the zoning maps relating to this By-law, follows the shore line of a river or watercourse, the mean high water mark is the boundary;
- (c) the boundary, as shown on the zoning maps relating to this By-law, substantially follows a stream or creek, the centre line of such feature is the boundary;
- (d) the boundary, as shown on the zoning map relating to this By-law, substantially follows *property lines* shown on the registered plan of subdivision, such lines are the boundaries;
- (e) the boundary, as shown on the zoning maps relating to this By-law, runs substantially parallel to a *street line* and the difference from the *street line* is not indicated, the boundary shall be deemed to be parallel to such *street line* and the distance from the *street line* shall be determined according to the scale shown on the zoning maps;
- (f) the boundary, as shown on the zoning maps relating to this By-law, follows a *street* or lane and the *street* or lane is subsequently closed, the land in the closed *street* or lane is included in the zone of the abutting land, and if such *street* or lane forms the boundary between two or more different zones, the centre line of the closed *street* or lane is the boundary.

**2.3(4) GENERAL PROHIBITIONS**

- (a) No land, *building* or *structure* may be used or occupied, and no *building* or *structure* may be placed, constructed, erected, moved, sited, altered or enlarged, and no subdivision may be approved, except in conformity with this By-law.
- (b) No *building* or *structure* may be placed, constructed, erected, moved, sited, altered or enlarged, and no subdivision may be approved, so as to cause any existing *building* or *structure* on the same *lot* to violate the provisions of this By-law.

**2.3(5) PERMITTED AND PROHIBITED USES**

- (a) No land, *building* or *structure* may be used for a *use* that is not specifically listed under the heading "Permitted Uses" or "Conditional Uses" in the zone that the land, *building* or *structure* is located. Z-5.59
- (b) No *building* or *structure* may be placed, constructed, erected, moved, sited, altered or enlarged for any *use* other than a specifically permitted *use* in that zone.

**2.3(6) VARIANCES TO BY-LAW STANDARDS**

- (a) Only those regulations and requirements found under the Standards sections of this By-law may be varied through a variance application process.

**2.3(7) ABBREVIATIONS**

BR	bedroom
CBD	Central Business District
COF	City of Fredericton
estab.	establishment
GFA	gross floor area
ha	hectares
incl.	including
lab.	laboratory
m	metres
m <sup>2</sup>	square metres
MIN	minimum
MAX	maximum
NFA	net floor area
N/A	not applicable
PID	Parcel ID (identification number)
req'd	required
reqt's	requirements
ROW	right-of-way
sp	space (parking space)
<	less than
≥	greater than or equal to

After a modified clause: (Example)

Z-5.16 By-law that amended Zoning By-law Z-5

Z-5.59 By-law that amended Zoning By-law Z-5