



## AGENDA ITEM REPORT

**Meeting:** Regular Meeting of Council, Operations and Planning - 01 Dec 2021  
**To:** Members of Council  
**From:** John Jardine, Planner  
**Department:** Planning  
**Subject:** Bylaw 2022-005 to Amend Bylaw 2004-035 Comprehensive Zoning Bylaw to Conform with the Natural Vegetative Buffer Policies in the Official Plan

### Recommendation:

That Council accept this report "Bylaw 2022-005 to Amend Bylaw 2004-035 Comprehensive Zoning Bylaw to Conform with the Natural Vegetative Buffer Policies in the Official Plan" as submitted by the Municipal Planner and reviews for a first reading; and

That Council provide further direction or required changes/amendments, if necessary, by proposing a new motion; and

Furthermore, That Council direct staff to bring back for second reading.

### Origin:

The Municipality of Hastings Highlands is a part of the County of Hastings. The County of Hastings updated their Official Plan in 2017 and the Official Plan was approved by the Ministry of Municipal Affairs and Housing on August 3, 2018. Subsection 26(9) of the *Planning Act* requires Council to amend Bylaw 2004-035 Comprehensive Zoning Bylaw to conform with the County of Hastings Official Plan by August 3, 2021.

At the November 3, 2021 Regular Meeting of Council, Council resolved the following:  
(407-2021)

That Council accepts this report titled "Public Engagement Strategy for the Amendment of the Comprehensive Zoning Bylaw to Conform with the Official Plan" as submitted by the Municipal Planner; and

That Council approves the Public Engagement Strategy for the Amendment of the Comprehensive Zoning Bylaw to Conform with the Official Plan.

### Background information:

#### Context

Bylaw 2021-021 Comprehensive Zoning Bylaw was approved by Council on July 21, 2021. As a result of reviewing the applicable planning legislation it was identified by municipal staff that there was an oversight in providing proper notice requirements under the *Planning Act*.

Municipal staff reviewed the oversight with the municipality's lawyer and were advised to request that Council revoke Bylaw 2021-021 and proceed with a new zoning bylaw amendment to conform with the County of Hastings Official Plan as per Section 26(9) of the *Planning Act*. Council approved Bylaw 2021-064 to revoke Bylaw 2021-021 at the Council meeting on September 1, 2021.

Section 26(9) requires Bylaw 2004-035 Comprehensive Zoning Bylaw to be amended to conform with the County of Hastings Official Plan.

### **Planning Legislation Hierarchy**

The planning legislation hierarchy in Ontario involves multi-level policies where high-level plans and policies help guide and inform plans and policies at lower levels. Policies and plans at lower levels must conform with the higher-level plans and policies.

The *Planning Act* is the provincial legislation that governs land use planning in Ontario and provides the legal foundation for the tools that planners use to make planning decisions.

Under Section 3 of the *Planning Act*, the Provincial Policy Statement (PPS) is a consolidated statement of the provincial government's policies on planning.

Under Part III of the *Planning Act*, municipalities are granted the authority to develop, amend, and update their Official Plan. An Official Plan contains goals, objectives, and policies to manage and direct growth in the municipality with a policy framework to guide its organization and development.

The Municipality of Hastings Highlands is subject to the County of Hastings Official Plan. Part V of the *Planning Act* includes land use controls and related administration that municipalities use to manage, direct, and implement growth. These controls include a Comprehensive Zoning Bylaw which is a land use tool that is used to implement the goals and objectives set out in its Official Plan.

### **Goal**

The goal of the Zoning Bylaw Amendments is to amend Bylaw 2004-035 Comprehensive Zoning Bylaw to conform with the County of Hastings Official Plan in accordance with the *Planning Act*.

The Municipality will be amending Bylaw 2004-035 Comprehensive Zoning Bylaw in two separate Zoning Bylaw Amendments:

1. Bylaw 2022-005 being a Zoning Bylaw Amendment to include all provisions addressing a 30 metre natural vegetative buffer to conform with the County of Hastings Official Plan; and
2. Bylaw 2022-004 being a Zoning Bylaw Amendment to include all other provisions required to conform with the County of Hastings Official Plan.

### **Proposed Amendments Related to Natural Vegetative Buffer**

#### **Provincial Policy Statement**

The Ontario Ministry of Environment, Conservation and Parks (MECP) “recommends a minimum 30 metre setback from the highwater mark of water bodies as a standard in local Official Plans and related Comprehensive Zoning Bylaw and is consistent with Section 2.2.1 of the Provincial Policy Statement Part h) ‘ensuring consideration of environmental lake capacity.’ This is also in addition to Section 2.2.2 of the Provincial Policy Statement which states that ‘Development and site alteration shall be restricted in or near sensitive surface water features and sensitive ground water features such that these features and their related hydrologic function will be protected, improved or restored’.”

The Ontario Ministry of Environment, Conservation and Parks (MECP) supports a minimum setback of 30 metres “to provide protection to lakes, rivers and streams from inputs of nutrients and suspended sediment consistent with Section 2.2. Water - of the Provincial Policy Statement. These contaminants originate primarily from the disturbance of soils, removal of natural vegetation, hardening of the landscape which results in increased surface runoff in addition from the migration of septic effluent from tile fields. The minimum setback of 30 metres from a water body is also recommended for water quality protection purposes. Generally, the greater the setback from the water; the greater the level of water quality protection. The 30 m buffer strip has become a standard and has been supported before the Local Planning Appeal Tribunal (LPAT).”

For more information on the reason for a 30 metre buffer strip, please refer to a review of scientific literature on vegetative buffer conducted by Hutchinson Environmental Sciences Ltd. (HESL) and J. L. Richards & Associates Ltd. (JLR) for Haliburton County:

[State of the Science Report](#)

If the above hyperlink does not work, please copy and paste the following into your internet browser: [https://haliburton.civicweb.net/FileStorage/5BF46C255EDB4176810D299CE06554A2-2021-08-18\\_J210039\\_Shoreline%20Lit%20Review.pdf](https://haliburton.civicweb.net/FileStorage/5BF46C255EDB4176810D299CE06554A2-2021-08-18_J210039_Shoreline%20Lit%20Review.pdf)

The proposed definitions and zoning provisions are consistent with the Provincial Policy Statement.

### **Definitions**

The following definitions have been amended, added, or deleted to conform with the policies in the Official Plan related to natural vegetative buffers:

#### ***a) Site alteration:***

Added new definition to conform with Sections 4.4.2 and 5.4.5 of the Official Plan and to be consistent with the Provincial Policy Statement, 2020. The Provincial Policy Statement, 2020 defines site alteration as follows: "means activities, such as grading, excavation and the placement of fill that would change the landform and natural vegetative characteristics of a site."

#### ***b) Steep and/or unstable slope:***

Added new definition to conform with Section 4.4.2.2 of the Official Plan which states "The accepted angle of a slope for stability is approximately three-to-one (horizontal:vertical), or approximately 18 degrees."

### **General Provisions**

The following general provisions have been amended, added, or deleted to conform with the policies in the Official Plan related to natural vegetative buffers:

#### ***a) Section 5.9.2 "Development within 30 metres of the high water mark":***

The proposed amendment to Section 5.9.2 will delete the existing Section 5.9.2 which is as follows:

Current:

"5.9.2 Notwithstanding anything in this By-law, no building, structure, or septic tank installation including the weeping tile field ('no development') shall be located:

- i) within 30 metres (98.4 ft.) of the high water mark of a waterbody or permanent watercourse, notwithstanding that such body of water or watercourse is not shown on any Schedule forming part of this By-law; or

- ii) notwithstanding i) above, where it is proposed that a septic sewage disposal system is to be installed on private property between 15.0 m (49.2 ft.) and 30 m (98.4 ft.), a requirement for a minor variance to this by-law shall be waived; or
- iii) within 15 metres (49.2 ft.) of the top of bank; or
- iv) within 30 metres (98.4 ft.) of an Environmental Protection Wetland Zone.

The proposed amendment to Section 5.9.2 includes:

**- No Site alteration within 30 metres of the high water mark:**

Currently, Section 5.9.2 does not permit the development of buildings or structures within 30 metres of the high water mark, top of bank, and lands zoned Environmental Protection Wetland (EPW). Section 5.9.2 does not specifically prohibit or restrict alteration within this 30 metre distance.

Section 5.4.5.7 of the County of Hastings Official Plan states:

"In Waterfront areas, residential dwellings shall be set back as far from the shoreline as is practical, taking into consideration the size, shape and topography of the lot in question. Wherever feasible, the setback should be at least 30 metres from the high water mark and should remain undisturbed and naturally vegetated. Where the placement of an existing road will not allow this setback, the distance may be reduced to half the distance between the road and the water body, subject to approval of a variance to the implementing Zoning By-law and to site plan approval and provided the setback is not less than 20 metres. Residential infill structures may be set back from the high water mark in accordance with the established building line."

Section 5.4.5.8 of the County of Hastings Official Plan states:

"In Waterfront areas and adjacent to watercourses, a natural vegetative buffer strip a minimum of 30 metres in width should be maintained wherever possible from the seasonal high water mark to filter pollutants from run-off. Within this buffer area, the clear cutting of trees shall be discouraged. On existing lots of record where a 30 metre setback from the high water mark is not possible, the setback may be reduced to the maximum setback possible, subject to the approval of a minor variance to the implementing Zoning By-law and to site plan approval. In order to determine the most appropriate building location of an existing lot of record, consideration should be given to reductions in other yard setbacks before considering reductions to the setback to the high water mark. A lesser buffer area may be required as determined by an approved environmental impact statement or site evaluation report pursuant to Part A - Sections 7.8.6 and 7.8.8 of this Plan that demonstrates that there will be no negative impact on the fish habitat and its ecological function."

Section 5.4.5.7 and 5.4.5.8 are policies in the Official Plan which restrict development and the disturbance of a natural vegetative buffer along the shoreline. The proposed amendment to Section 5.9.2 of Bylaw 2004-035 Comprehensive Zoning Bylaw to prohibit site alteration within 30 metres of the high water mark will conform with Sections 5.4.5.7 and 5.4.5.8 of the Official Plan.

**- No Site alteration within 30 metres of a steep and/or unstable slope**

Currently, Section 5.9.2 of Bylaw 2004-035 Comprehensive Zoning Bylaw prohibits development within 15 metres of the top of bank. Section 5.9.2 will be amended to replace the requirement for development to be at least 15 metres from the top of the bank to require development to be at least 30 metres from the top and toe of a steep and/or unstable slope.

Section 4.4.2.2 of the Official Plan states:

"Slope failures cause devastating damages to homes and highways and can be fatal. The accepted angle of a slope for stability is approximately three-to-one (horizontal: vertical), or approximately 18 degrees. Where possible, a minimum setback of 30 metres shall be required from the toe and top of a shoreline or nonshoreline cliff, bluff or bank. These setbacks are required to avoid increases in loading forces on the top of the slope, changes in drainage patterns that would compromise slope stability or exacerbate erosion of the slope face, and loss of stabilizing vegetation on the slope face. Additional setbacks based on site-specific characteristics such as slope, evidence of rock-fall, soil type and /or sensitive fish habitat may be required. Protection should be ensured from the 100 year erosion rate."

The proposed amendment to Section 5.9.2 will restrict development within 30 metres of the toe and top of a steep and/or unstable slope to conform with Section 4.4.2.2 of the Official Plan.

**- No Site alteration within 30 metres of lands zoned Environmental Protection Wetland (EPW)**

The proposed amendment to Section 5.9.2 will keep the current restriction of development within 30 metres of lands zone Environmental Protection Wetland (EPW).

Section 4.5.2.6 of the Official Plan states:

"Development and site alteration shall not be permitted within or adjacent to lands designated Environmental Protection as required within this Plan. Exceptions may be considered in accordance with the policies of this Plan provided that the ecological function of the natural feature, where it constitutes a natural heritage feature, has been evaluated and it has been demonstrated that there will be no negative impacts on the natural feature or on its associated ecological functions."

Section 4.5.4.10 of the Official Plan states:

"Development and/or site alteration adjacent to wetlands within 30m of areas designated Environmental Protection or within 120 m of Environmental Protection 'EP-W' may be permitted provided is has been demonstrated through an approved EIS in accordance with Section 7.8.6 of this Plan that there will be no negative impacts on the wetland feature or its associated ecological function."

Therefore, the proposed amendment to Section 5.9.2 will require development to be at least 30 metres from lands zoned Environmental Protection Wetland (EPW) in accordance with Sections 4.5.2.6 and 4.5.4.10 of the Official Plan.

**- Intermittent Creek**

Currently, intermittent watercourses are excluded from Section 5.9.2 of Bylaw 2004-035 Comprehensive Zoning Bylaw.

Section 5.4.5.8 of the Official Plan states:

"In Waterfront areas and adjacent to watercourses, a natural vegetative buffer strip a minimum of 30 metres in width should be maintained wherever possible from the seasonal high water mark to filter pollutants from run-off. Within this buffer area, the clear cutting of trees shall be discouraged. On existing lots of record where a 30 metre setback from the high water mark is not possible, the setback may be reduced to the maximum setback possible, subject to the approval of a minor variance to the implementing Zoning By-law and to site plan approval. In order to determine the most appropriate building location of an existing lot of record, consideration should be given to reductions in other yard setbacks before considering reductions to the setback to the

high water mark. A lesser buffer area may be required as determined by an approved environmental impact statement or site evaluation report pursuant to Part A - Sections 7.8.6 and 7.8.8 of this Plan that demonstrates that there will be no negative impact on the fish habitat and its ecological function."

Section 5.4.5.8 of the Official Plan does not make a distinction between permanent and intermittent watercourses.

Section 4.2.4.1 of the Official Plan states:

"Fish habitat provides food, cover and conditions for successful reproduction and support of a species throughout its lifecycle. Lakes, rivers, streams, ponds, shoreline areas and many wetlands provide fish habitat. Intermittent and seasonally flooded areas can also provide important habitat for some fish species at certain times of the year. In addition, in-water structures such as logs, stumps and other woody debris, pools and riffle areas, riparian and aquatic vegetation and ground water recharge/discharge areas also provide habitat. Habitat includes the watercourses that act as corridors that allow fish to move from one area to another."

Section 4.2.4.4 of the Official Plan states:

"A minimum 30 metre setback along watercourses to protect fish habitat shall be required to remain undisturbed and naturally vegetated."

Section 4.2.4.1 of the Official Plan explains the importance of protecting intermittent areas and Section 4.2.4.4 of the Official Plan requires a minimum setback of 30 metres for development along watercourses.

The proposed amendment to Section 5.9.2 will require a 30 metre setback for development from all watercourses (including permanent and intermittent) to conform with Sections 4.2.4.1, 4.2.4.4, and 5.4.5.8 of the Official Plan.

**- Septic:**

The proposed amendment will delete the current Section 5.9.2 ii) which permits septic systems to be as close as 15 metres to a waterbody or watercourse.

Section 5.4.4.2 of the County of Hastings Official Plan states:

"New septic systems are encouraged to be located as far back from the shoreline as is reasonable and possible, and shall be located a minimum of 30 metres (100 feet) from the high water mark or in accordance with the setback requirements for cold water lakes if applicable. Where it is not physically possible (due to terrain features, lot depth or design features) to located the leaching bed and mantle at such a distance, a lesser setback that is no less than 15 metres (50 feet) may be permitted in accordance with the approved recommendations of a Site Evaluation Report pursuant to Part A - Section 7.8.8 of this Plan. Septic systems using tertiary treatment technology may be required in this instance."

Section 5.4.4.2 requires the septic to be at least 30 metres from the high water mark.

**- The use of "and" instead of "or":**

Currently, Section 5.9.2 states "Notwithstanding... i)... or; ii)... or; iii)... or; iv)... The amended Section 5.9.2 will replace "or" with "and" to ensure that all of these general provisions are being met.

For example, currently, if someone applied for a Minor Variance Application to build a cottage and the cottage was within 30 metres of a waterbody and 30 metres of lands zoned Environmental Protection Wetland, Staff interpret Section 5.9.2 to require relief from one of those provisions. Replacing "or" with "and" will require this same Minor Variance Application to seek relief for both of these provisions.

The proposed amended Section 5.9.2 reads as follows:

"5.9.2 Notwithstanding anything in this Bylaw, no development, site alteration or septic tank installation including the weeping tile field shall be located or occur:

- i) within 30 metres (98.4 ft.) of the high water mark of a waterbody or watercourse, notwithstanding that such waterbody or watercourse is not shown on any Schedule forming part of this Bylaw;
- ii) within 30 metres (98.4 ft.) of the toe and top of shoreline or non-shoreline cliff, bluff or bank that is a steep and/or unstable slope; and
- iii) within 30 metres (98.4 ft.) of an Environmental Protection Wetland (EPW) Zone."

### **b) Section 5.9.3 "Shoreline Activity and Waterfront Use"**

Currently, Section 5.9.3 of Bylaw 2004-035 Comprehensive Zoning Bylaw is as follows:

"5.9.3 The provisions of subsections 5.9.1 and 5.9.2 shall not apply to buildings, structures and services requiring direct access to the water as an operational necessity such as a marina, marine facility, or other similar structure."

Section 5.4.5.9 of the Official Plan states:

"Shoreline activity will be permitted within 30 metres of the seasonal high water mark for accessory shoreline structures such as boathouses and boat docks and where there is suitable/adequate access to the water for activities such as swimming or boat launching. To maintain an appropriate balance between a natural shoreline and built form, structures in shoreline activity areas should be focused within a defined area of the shoreline frontage and be limited in extent. Where appropriate, such activity areas may develop in more than one location on a property. The extent of shoreline activity areas will be considered within the following targets:

- a) 25% of the shoreline frontage or up to 23 metres (75 feet), whichever is the lesser, for linear shoreline residential development;
- b) 35% of the shoreline frontage for tourist commercial and institutional accommodation, waterfront contracting operations, and waterfront landings; and,
- c) 50% of the shoreline frontage for marinas."

The proposed amendment to Section 5.9.3 of Bylaw 2004-035 Comprehensive Zoning Bylaw will conform with Section 5.4.5.9 of the Official Plan. The proposed amendment to Section 5.9.3 of Bylaw 2004-035 Comprehensive Zoning Bylaw will read as follows:

### **"5.9.3 Shoreline Activity and Waterfront Use**

- i) The provisions in subsections 5.9.1 and 5.9.2 shall not apply to buildings, structures and services requiring direct access to the water as an operational necessity such as a marina, marine facility, or other similar structure.
- ii) Notwithstanding subsection 5.9.1 and 5.9.2, the following shoreline uses will be permitted within 30 metres (98.4 ft.) of the high water mark or floodplain subject to all applicable provisions of this Bylaw:
  - a) Dock;
  - b) Boathouse; and
  - c) Boat launch.

- iii) It is prohibited to alter or remove the natural vegetation within the 30 metre (98.4 ft.) vegetative buffer to any shoreline of a waterbody or watercourse, except:
- a) 25% of the shoreline frontage or up to 23 metres (75 feet), whichever is the lesser, for linear shoreline residential development;
  - b) 35% of the shoreline frontage for tourist commercial and institutional accommodation, waterfront contracting operations and waterfront landings;
  - c) 50% of the shoreline frontage for marinas; and
  - d) Where b) and c) are present on a lot adjacent to a waterbody or watercourse, the aggregate percentage of the shoreline devoted to those uses shall be a maximum of 50% of the shoreline frontage."

### **Zoning Provisions**

The following zoning provisions apply to specific Zones in Bylaw 2004-035 Comprehensive Zoning Bylaw

#### ***30 metre Natural Vegetative Buffer***

Currently, the Limited Services Residential (LSR), Limited Services Residential Island (LSRI), and Waterfront Residential (WR) Zones require "a natural vegetative buffer strip 15 metres (49.2 ft.) in width shall be maintained" along the shorelines.

Section 5.4.5.3 of the Official Plan contains the following planning principles to guide development for waterfront properties:

"a) Development should not take place on lands having environmental constraints and is discouraged in areas possessing important natural characteristics unless it can be demonstrated that there will be no negative impact on this feature or its ecological function in accordance with the policies of this Plan;...

d) Natural shorelines and vegetative buffers will be retained, maintained and/or restored;

e) Native species should be used for buffers and where vegetation is being restored;

f) Measures such as changes to proposed lot lines and increased setbacks should be utilized to help address potential negative impacts to natural heritage features and the environment;... and

i) Building envelopes, including the careful siting of shoreline structures, and the associated activity area should be defined and located in the most appropriate locations on the property, leaving the remainder of the property generally in its natural state."

Section 5.4.5.7 of the Official Plan states:

"In Waterfront areas, residential dwellings shall be set back as far from the shoreline as is practical, taking into consideration the size, shape and topography of the lot in question. Wherever feasible, the setback should be at least 30 metres from the high water mark and should remain undisturbed and naturally vegetated. Where the placement of an existing road will not allow this setback, the distance may be reduced to half the distance between the road and the water body, subject to approval of a variance to the implementing Zoning By-law and to site plan approval and provided the setback is not less than 20 metres. Residential infill structures may be set back from the high water mark in accordance with the established building line."

Section 5.4.5.8 of the Official Plan states:

"In Waterfront areas and adjacent to watercourses, a natural vegetative buffer strip a minimum of 30 metres in width should be maintained wherever possible from the seasonal high water mark to filter pollutants from run-off. Within this buffer area, the clear cutting of trees shall be discouraged. On existing lots of record where a 30 metre setback from the high water mark is not possible, the setback may be reduced to the maximum setback possible, subject to the approval of a minor variance to the



implementing Zoning By-law and to site plan approval. In order to determine the most appropriate building location of an existing lot of record, consideration should be given to reductions in other yard setbacks before considering reductions to the setback to the high water mark. A lesser buffer area may be required as determined by an approved environmental impact statement or site evaluation report pursuant to Part A - Sections 7.8.6 and 7.8.8 of this Plan that demonstrates that there will be no negative impact on the fish habitat and its ecological function."

Section 5.4.5.8 of the Official Plan states "a natural vegetative buffer strip a minimum of 30 metres in width should be maintained wherever possible," and does not say "shall be maintained." The use of "should" grants exceptions whereas the use of "shall" is a mandatory requirement. Sections 5.4.5.7 and 5.4.5.8 of the Official Plan are written with leniency and flexibility to permit "exceptions" to these Sections to provide flexibility for property owners applying for Minor Variance from the Comprehensive Zoning Bylaw.

The proposed amendment to Bylaw 2004-035 Comprehensive Zoning Bylaw will increase the natural vegetative buffer from 15 metres to 30 metres in Section 8.3 c) "Limited Service Residential (LSR) Zone", Section 9.3 c) "Limited Service Residential Island (LSRI) Zone", and Section 10.3 c) "Waterfront Residential (WR) Zone" to conform with Sections 5.4.5.3, 5.4.5.7, and 5.4.5.8 of the Official Plan.

### ***30 metre setback from high water mark in Tent and Trailer Parks***

Currently, Section 17.3 e) xi) does not prohibit a septic system within 30 metres of the high water mark of a waterbody or watercourse.

Section 5.6.4.2 c) of the Official Plan states:

"No campsite, building or structure, except a marine facility for launching and/or servicing of boats, is permitted within 30 metres of the high water mark of any waterbody. All docking and boat launching structures/facilities shall require the approval of the appropriate federal, provincial or public agencies;"

Section 5.4.4.2 of the County of Hastings Official Plan states:

"New septic systems are encouraged to be located as far back from the shoreline as is reasonable and possible, and shall be located a minimum of 30 metres (100 feet) from the high water mark or in accordance with the setback requirements for cold water lakes if applicable. Where it is not physically possible (due to terrain features, lot depth or design features) to located the leaching bed and mantle at such a distance, a lesser setback that is no less than 15 metres (50 feet) may be permitted in accordance with the approved recommendations of a Site Evaluation Report pursuant to Part A - Section 7.8.8 of this Plan. Septic systems using tertiary treatment technology may be required in this instance."

The proposed amendment to Section 17.3 e) xi) for Tent and Trailer Parks will be amended to require a setback of 30 metres for septic tanks or tile fields from the high water mark to conform with Section 5.4.4.2 of the Official Plan.

### ***Shoreline Activity and Waterfront Use in Tent and Trailer Parks***

Currently, Section 17.3 e) only contains a minimum waterfront usage (Section 17.3 e) ix)) which states:

"ix) Travel Trailer Park Usable Waterfront (Minimum) - 2 metres/site (6.68 ft./site)"

Section 5.6.4.2 e) of the Official Plan states:

"Adequate provision for recreational facilities shall be made in any new tent and trailer park or major expansion of an existing one. These may be beaches, swimming pools, tennis courts, major open space areas or a combination of these and/or similar features. A tent and trailer park located in the Waterfront area shall provide a waterfront park adequate to meet the needs of the proposed number of campsites but shall generally provide not less than the greater of 30 metres or 2 metres of waterfront for each site but shall not exceed 35% of the shoreline frontage pursuant to Part A - Section 5.4.5.9 of this Plan. In considering the suitability of beach or open space areas, Council shall consult with its peer review agent;"

The proposed amendment to add xiii) to Section 17.3 e) will require a maximum water frontage of 35% to conform with Section 5.6.4.2 e) of the Official Plan.

**30 metre setback from high water mark for Tourist Establishments (Hotels, Lodges, Housekeeping Cottages and Tourist Cabins)**

Currently, Section 17.3 f) iii) of Bylaw 2004-035 Comprehensive Zoning Bylaw states:

"iii) No campsite, building or structure except a marine facility for launching and/or servicing of boats or a water pump house is permitted within 30 metres (98.4 ft.) of the highwater mark of any water body."

Section 5.6.2.2 of the Official Plan states:

"...g) No building, structure, septic tank or tile field, except a pump house or marine facility for the launching and/or servicing of boats shall be located closer than 30 metres to the high water mark of any water body;

h) All docking and boat launching structures/facilities shall require the approval of the appropriate federal, provincial or public agency..."

The proposed amendments to Section 17.3 f) iii) of Bylaw 2004-035 Comprehensive Zoning Bylaw will be amended to prohibit septic tanks or tile fields within 30 metres of the high water marks for Tourist Establishment uses to conform with Section 5.6.2.2 of the Official Plan.

**Public Input**

The public will be notified and input will be received in accordance with the *Planning Act* and the Public Engagement Strategy.

**Important Note for the Right to Appeal**

In order for a person or public body to appeal one or both of the Zoning Bylaw Amendments to the Ontario Land Tribunal, the person or public body must make an oral submission at a public meeting or provide a written submission for these two Zoning Bylaw Amendments.

People who provided written or oral submissions regarding the now-revoked Bylaw 2021-021 Comprehensive Zoning Bylaw will need to provide a written or oral submission for these two Zoning Bylaw Amendments. Otherwise, the person or public body will have no right to appeal to the Ontario Land Tribunal.

**Financial impact:**

Not applicable

**Link to strategic plan:**

Strategic Plan Priority #1 - Financial Stability

Goal: Promote Assessment Growth

Action: Undertake a review of the zoning bylaw with an eye to the future and building our community.

**References:**

*Planning Act*

Provincial Policy Statement, 2020

County of Hastings Official Plan

Bylaw 2004-035 Comprehensive Zoning Bylaw

**Attachments:**

[Bylaw 2022- 005 Zoning Bylaw Amendment to conform natural vegetative buffer with the Official Plan](#)

**Prepared By:**

John Jardine, Planner

**Reviewed By:** Municipal Clerk November 22, 2021

**Reviewed By:** CAO/Treasurer November 22, 2021

**The Corporation of The Municipality of Hastings Highlands**

**Bylaw 2022-005**

**A Bylaw to Amend Comprehensive Zoning Bylaw No. 2004-035, as Amended, of The Corporation of The Municipality of Hastings Highlands, Being Bylaws to Regulate The Use of Land and The Height, Bulk, Location, Spacing, Character And Use of Buildings**

**Whereas** Bylaw No. 2004-035, as amended, is the Comprehensive Zoning Bylaw governing the lands located within the Corporation of the Municipality of Hastings Highlands;

**And Whereas** the Official Plan for the Corporation of the County of Hastings, as amended, contains the goals, objectives and policies established primarily to manage and direct physical change and the effects on the social, economic, built and natural environment of the lands located within the County of Hastings and its member municipalities;

**And Whereas** the Corporation of the Municipality of Hastings Highlands is a member municipality located within the County of Hastings;

**And Whereas** the Council of the Corporation of the County of Hastings adopted the Official Plan on the 19<sup>th</sup> of December, 2017 and the Official Plan was approved by the Ministry of Municipal Affairs and Housing on the 3<sup>rd</sup> of August, 2018 and is now in full force and effect;

**And Whereas** subsection 26(9) of the *Planning Act*, R. S. O. 1990, c.P.13, as amended, requires Council to amend the Comprehensive Zoning Bylaw to ensure conformity with the Official Plan of the Corporation of the County of Hastings no later than three years after its revision;

**And Whereas** at least one (1) open house was held in accordance with Section 34 of the *Planning Act*, R. S. O. 1990, c.P.13, as amended, to give the public an opportunity to review and ask questions about the proposed Bylaw;

**And Whereas** at least one (1) public meeting was held in accordance with Section 34 of the *Planning Act*, R. S. O. 1990, c.P.13, as amended, to give the public an opportunity to make representations in respect of the proposed Bylaw;

**And Whereas** the Council of the Corporation of the Municipality of Hastings Highlands deems it appropriate to amend Bylaw No. 2004-035 for the Corporation of the Municipality of Hastings Highlands;

**And Whereas** authority is granted under Section 34 of the *Planning Act*, R. S. O. 1990, c.P.13, as amended;

**Now Therefore, The Council of The Corporation of The Municipality of Hastings Highlands Enacts As Follows:**

1. **That** Comprehensive Zoning Bylaw No. 2004-035, as amended, is hereby amended by the addition of the following to Section 3 entitled "Definitions":

- a) That Section 3, as amended, is hereby further amended by adding Section 3.232.1 for the definition of “site alteration” following the definition for “sight triangle” as follows:

“site alteration” shall mean any change in land including, but not limited to:

- a) The placing or dumping of fill;
- b) The removal of topsoil;
- c) Placing, dumping, removal or blasting of rock;
- d) Any other action that alters the grade of land including the altering in any way of a natural drainage course on a site; or
- e) Any combination of the above activities.”

- b) That Section 3, as amended, is hereby further amended by adding Section 3.233.1 for the definition of “steep and/or unstable slope” following the definition for “solar collector” as follows:

“steep and/or unstable slope” shall mean any change in elevation resulting in a slope greater than 3:1 (horizontal:vertical) or greater than 18 degrees.”

2. **That** Comprehensive Zoning Bylaw No. 2004-035, as amended, is hereby amended by deleting in its entirety and replacing the following in Section 5 entitled “General Provisions”:

- a) “5.9.2 Notwithstanding anything in this Bylaw, no development, site alteration or septic tank installation including the weeping tile field shall be located or occur:
- i) within 30 metres (98.4 ft.) of the high water mark of a waterbody or watercourse, notwithstanding that such waterbody or watercourse is not shown on any Schedule forming part of this Bylaw; and
  - ii) within 30 metres (98.4 ft.) of the toe and top of shoreline or non-shoreline cliff, bluff or bank that is a steep and/or unstable slope; and
  - iii) within 30 metres (98.4 ft.) of an Environmental Protection Wetland (EPW) Zone.”
- b) “5.9.3 Shoreline Activity and Waterfront Use
- i) The provisions in subsections 5.9.1 and 5.9.2 shall not apply to buildings, structures and services requiring direct access to the water as an operational necessity such as a marina, marine facility, or other similar structure.

- ii) Notwithstanding subsection 5.9.1 and 5.9.2, the following shoreline uses will be permitted within 30 metres (98.4 ft.) of the high water mark or floodplain subject to all applicable provisions of this Bylaw:
    - a) Dock;
    - b) Boathouse; and
    - c) Boat launch.
  - iii) It is prohibited to alter or remove the natural vegetation within the 30 metre (98.4 ft.) vegetative buffer to any shoreline of a waterbody or watercourse, except:
    - a) 25% of the shoreline frontage or up to 23 metres (75 feet), whichever is the lesser, for linear shoreline residential development;
    - b) 35% of the shoreline frontage for tourist commercial and institutional accommodation, waterfront contracting operations and waterfront landings;
    - c) 50% of the shoreline frontage for marinas; and
    - d) Where b) and c) are present on a lot adjacent to a waterbody or watercourse, the aggregate percentage of the shoreline devoted to those uses shall be a maximum of 50% of the shoreline frontage.”
3. **That** Comprehensive Zoning Bylaw No. 2004-035, as amended, is hereby amended by deleting in its entirety and replacing i) in Section 8.3 c) entitled “Vegetative Buffer Adjacent to the Shoreline” in the Limited Service Residential (LSR) Zone with the following:
- “i) a natural vegetative buffer strip 30 metres (98.4 ft.) in width shall be maintained.”
4. **That** Comprehensive Zoning Bylaw No. 2004-035, as amended, is hereby amended by deleting in its entirety and replacing i) in Section 9.3 c) entitled “Vegetative Buffer Adjacent to the Shoreline” in the Limited Service Residential Island (LSRI) Zone with the following:
- “i) a natural vegetative buffer strip 30 metres (98.4 ft.) in width shall be maintained.”
5. **That** Comprehensive Zoning Bylaw No. 2004-035, as amended, is hereby amended by deleting in its entirety and replacing i) in Section 10.3 c) entitled “Vegetative Buffer Adjacent to the Shoreline” in the Waterfront Residential (WR) Zone with the following:
- “i) a natural vegetative buffer strip 30 metres (98.4 ft.) in width shall be maintained.”

6. **That** Comprehensive Zoning Bylaw No. 2004-035, as amended, is hereby amended by deleting in its entirety and replacing xi) in Section 17.3 e) entitled “Additional Zone Regulations For a Tent and/or Travel Trailer Park” in the Recreational/Resort Commercial (RRC) Zone with the following:

“xi) No campsite, building, structure, septic tank or tile field, except a marine facility for launching and/or servicing of boats or a water pump house, shall be permitted within 30 metres (98.4 ft.) of the high water mark of any waterbody or watercourse, with the exception of at capacity lake trout lakes where Section 5.9 applies. All docking and boat launching structures/facilities shall require the approval of the appropriate federal, provincial or public agencies.”

7. **That** Comprehensive Zoning Bylaw No. 2004-035, as amended, is hereby amended by adding xiii) in Section 17.3 e) entitled “Additional Zone Regulations For a Tent and/or Travel Trailer Park” in the Recreational/Resort Commercial (RRC) Zone with the following:

“xiii) Travel Trailer Park Usable Waterfront (Maximum) – 35% of the water frontage where the remaining 65% of the shoreline shall be maintained in an undisturbed natural state.”

8. **That** Comprehensive Zoning Bylaw No. 2004-035, as amended, is hereby amended by deleting in its entirety and replacing iii) in Section 17.3 f) entitled “Additional Zone Regulations For Hotels, Lodges, Housekeeping Cottages and Tourist Cabins” in the Recreational/Resort Commercial (RRC) Zone with the following:

“iii) No campsite, building, structure, septic tank or tile field, except a marine facility for launching and/or servicing of boats or a water pump house shall be permitted within 30 metres (98.4 ft.) of the high water mark of any waterbody or watercourse, with the exception of “at capacity” lake trout lakes where Section 5.9 applies.”

#### **Coming Into Force**

9. **That** this bylaw shall come into force and take effect pursuant to the provisions of and the regulations made under the *Planning Act*, R. S. O., 1990, c.P.13, as amended.

Read a first time this 1<sup>st</sup> day of December, 2021

Read a second time this X<sup>xx</sup> day of XXXXXXXX, 2022

Read a third time, **Enacted** and **Passed** in Council this X<sup>xx</sup> day of XXXXXXXX, 2022.

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Tracy Hagar, Mayor

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Suzanne Huschilt, Municipal Clerk