

# **SECTION 1: INTERPRETATION AND ADMINISTRATION**

## **1.1 INTRODUCTION**

The purpose of this Zoning By-law is to implement the policies of the Town of Pelham's Official Plan. The Official Plan is a long-range policy document that is not meant to regulate every aspect of built-form on a private lot. In the Province of Ontario, this is the role of the Zoning By-law. Once an Official Plan is in effect, a municipality's Zoning By-law must conform to the Official Plan.

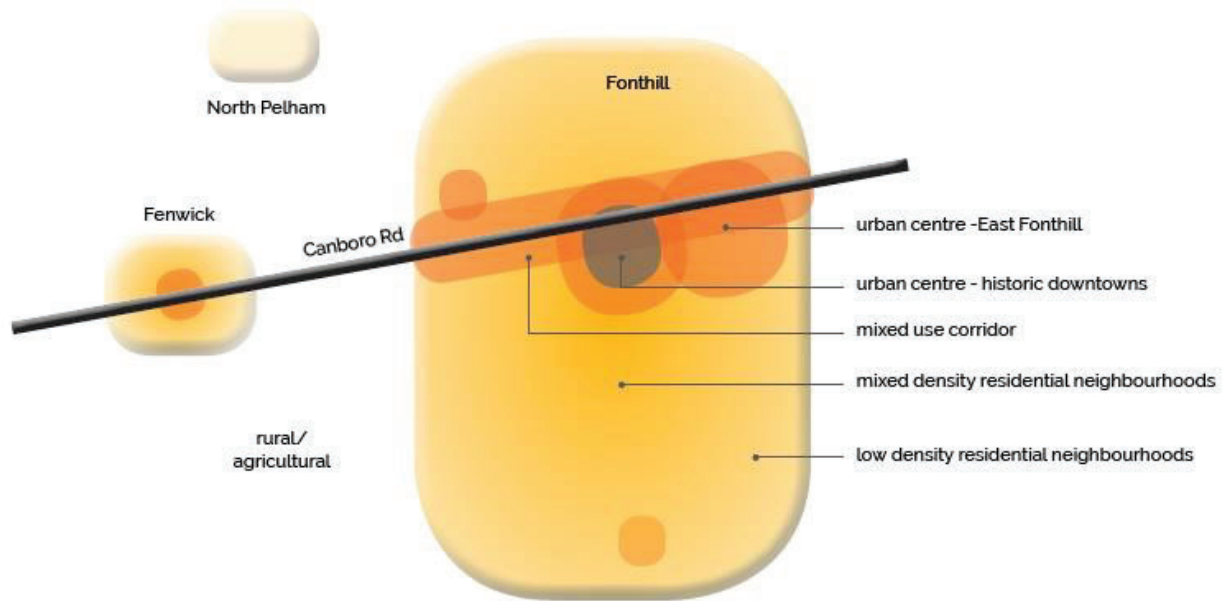
This Zoning By-law will apply to all land within the Town of Pelham with the exception of land in the Niagara Escarpment Commission Development Permit Control Area. Through the authority granted in Section 34 of the *Planning Act*, this By-law aims to prohibit the use of land and the erection of buildings and structures except for purposes as set out in this By-law. It will also regulate the type of construction, height, bulk, location, size, floor area, spacing, character and use of buildings or structure on the lands covered by this By-law.

It is the objective of this Zoning By-law to create successful, vibrant and livable communities with an array of residential housing types and commercial mixed uses in a pedestrian-oriented environment. This Zoning By-law integrates existing zones within the Town with Greenfield Residential and Commercial Mixed Use Zones, which support a growing, thriving, and diverse community.

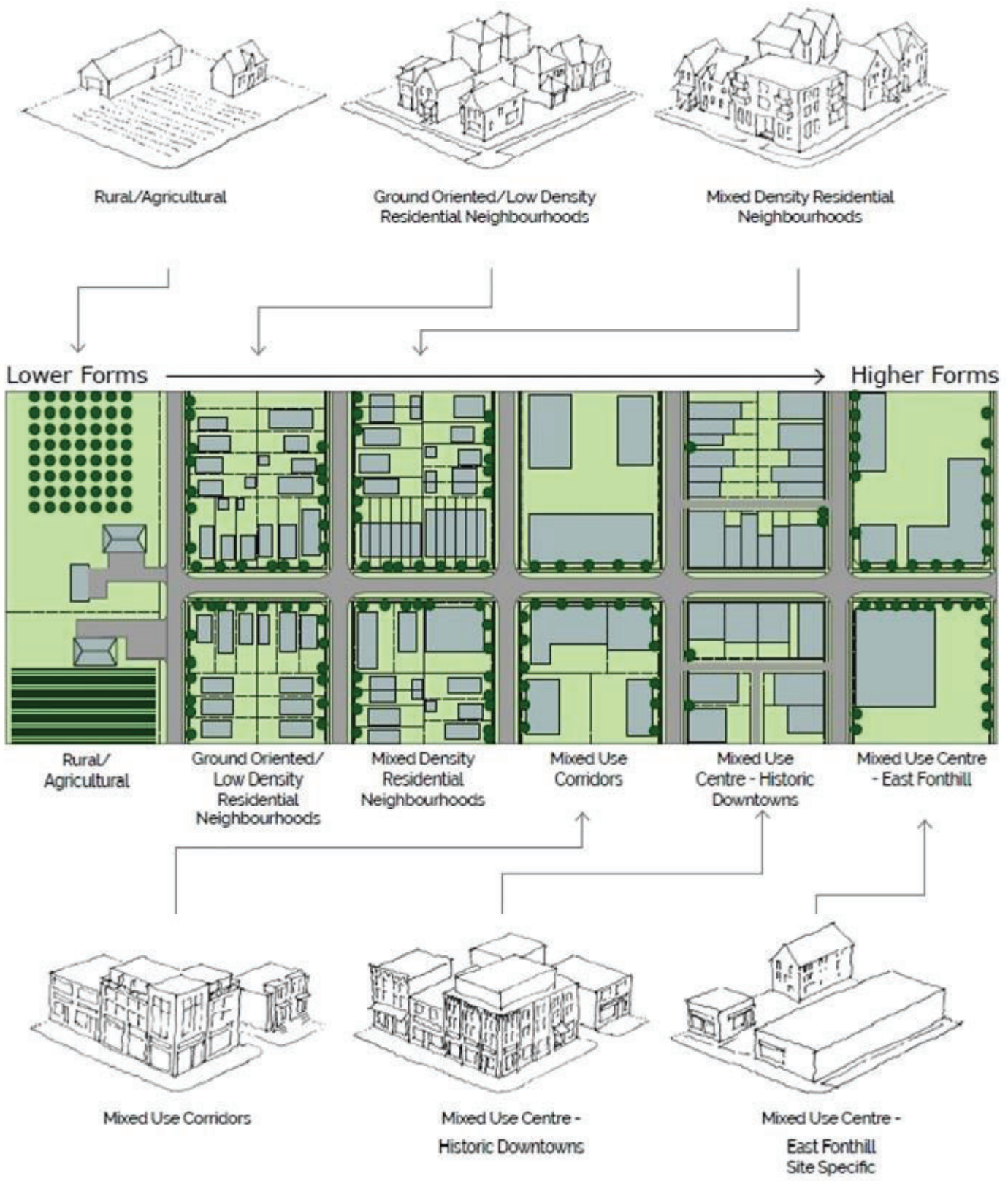
Zones for mixed uses and residential uses are based around the idea of a "Transect-based Code". This is a method for organizing urban form in a continuum of intensity from urban to rural, facilitating its categorization within form-based definitions. The Urban Core is the heart of the community – the downtown – where the greatest intensity is found. The highest and most dense buildings, and the greatest mix of uses are located here. The Rural/Agricultural edge surrounds the community and has the lowest density. In between are a series of graduated transitions, including low density residential neighbourhoods comprised mostly of single detached houses, medium density areas comprised of townhouses, small commercial pockets servicing their neighbourhoods and planned mixed use areas. This theoretical approach to the "transect" cannot be applied dogmatically to existing communities that have developed over a long period of time.

In Pelham, while there is a general transition from lower and less dense forms to higher and more dense forms, it is important to recognize that the community has developed over a very long period of time, and there are a number of settlements, neighbourhoods and centres that exhibit different forms and densities. There are important nodes and corridors that have had their own role within the overall urban structure. The transect concept does not occur in a straight line from centre to edge, but it is still evident as a general pattern. The "transect" is a useful tool for organizing the Town's urban structure and establishing zones that facilitate a continuum of intensity using form-based standards.

# Conceptual Urban Structure of Pelham



Prototype Transect



## **1.2 TITLE AND SCOPE**

This By-law is known as the Zoning By-law of the Town of Pelham (this By-law) and applies to all lands within the corporate limits of the Town except for that area that is subject to the Niagara Escarpment Development Permit Control Area.

## **1.3 APPLICATION**

- a) No person shall use any land or erect or alter any buildings or structures within a zone, except in conformity and compliance with the provisions of this By-law.
- b) No person, other than a public authority, shall reduce any lot by conveyance or otherwise so that it does not meet the requirements of this By-law, or if it did not meet the requirements initially, that it is further from meeting them.
- c) No municipal permit, certificate or license may be issued if the permit is required for a use of land, erection, alteration, enlargement or use of any building or structure that does not conform or comply with this By-law.
- d) Despite any other provisions of this By-law, the Chief Building Official of the Town may not issue a building permit for the development or redevelopment of any lands or buildings or structures or any part thereof within the area of the Town affected by this By-law unless in accordance with the provisions of this By-law and any By-law of the Town enacted pursuant to Section 41 of the *Planning Act*.
- e) The lack of a survey or mistake or an error or omission by any person required to comply with the provisions of this By-law does not relieve that person from liability for failure to comply with the provisions of this By-law.
- f) This By-law shall be administered by a person appointed by the Council of the Town of Pelham as the Zoning Administrator.

## **1.4 ZONES AND SYMBOLS**

- a) Schedules A through E attached hereto form part of this By-law.
- b) For the purpose of this By-law, the Town has been divided into zones, the boundaries of which are shown on Schedules A through E.
- c) The zone categories are referred to using colour coding, as illustrated in the legend on Schedules A through E.
- d) The zones are referred to by the following names throughout the Zoning By-law:

<b>Zone</b>	<b>Symbol</b>
<b>Residential Zones</b>	
Residential One Zone	R1
Residential Two Zone	R2
Residential Three Zone	R3
Residential Multiple One Zone	RM1
Residential Multiple Two Zone	RM2
Residential Development Zone	RD
Rural Residential Zone	RR
<b>Greenfield Development Zones</b>	
Greenfield Development Residential One Zone	GF-R1
Greenfield Development Residential Two Zone	GF-R2
Greenfield Development Residential Three Zone	GF-R3
Greenfield Neighbourhood Commercial Zone	GF-NC
<b>Commercial Zones</b>	
Village Commercial Zone	VC
Main Street Zone	MS
Town Square Zone	TS
Downtown Corridor Zone	DC
Neighbourhood Commercial Zone	NC
<b>Rural/Agricultural Zones</b>	
Agricultural Zone	A
Agricultural Zone - Cannabis	A-CAN
Specialty Agricultural Zone	SA
Specialty Agricultural Zone – Cannabis	SA-CAN
Rural Employment Zone	RE
Rural Employment Zone – Cannabis	RE-CAN
Commercial Rural Zone	CR
Mineral Aggregate Resource Zone	MAR
<b>Other Zones</b>	
Open Space Zone	OS
Institutional	I
Airport Zone	A
Environmental Protection One Zone	EP1
Environmental Protection Two Zone	EP2
Environmental Protection Three Zone	EP3

## **1.5 ZONE BOUNDARIES**

- a) The zones and zone boundaries are shown on Schedules A through E that are attached to and form part of this By-law.
- b) Respecting the zone boundaries of the zones, the following applies:
  - i. Each parcel of land within the Town is provided with a zone category, the boundary of the parcel forms the zone boundary.

- ii. The Environmental Protection One (EP1), Environmental Protection Two (EP2), Environmental Protection Three (EP3) and Open Space (OS) Zones boundary generally reflects the natural features and the location of the boundary may be determined by lot line, road, rail line, or where the zone does not abut any of the above, by the scale of the map or as confirmed through an Environmental Impact Study.
- c) Where a parcel of land or lot falls into two or more zones, each portion of the parcel of land or lot shall be used in accordance with the provisions of this By-law for each of the applicable zones.

## **1.6 MANDATORY WORDING**

The words "must" or "shall" are mandatory.

## **1.7 DISCRETIONARY WORDING**

The word "may" is not mandatory. "May" is used to indicate that some circumstances may or may not be applicable.

## **1.8 EXAMPLES AND ILLUSTRATIONS**

Examples and illustrations are for the purpose of clarification and convenience, and do not form part of this By-law.

## **1.9 SEVERABILITY**

Should any section, clause, provision or Schedule of this By-law be held by a court of competent jurisdiction to be invalid, the validity of the remainder of the By-law shall not be affected.

## **1.10 LITIGATION**

This By-law does not affect the rights of any person or landowner concerned in any action, litigation or other proceeding pending on the date of final passage, except to the extent to be determined in the final adjudication of action, litigation or other proceedings.

## **1.11 OCCUPANCY INSPECTION/FINAL INSPECTION REPORT**

- a) No land may be used or occupied, and no building or structure which has been erected or altered may be used or changed in use, in whole or in part, until an occupancy inspection report has been successfully completed and approved by the Town.



- b) No occupancy inspection report, final inspection report, building permit and/or approval of an application for any municipal license shall be issued where the proposed use, building or structure, is contrary to the provisions of this By-law.

## **1.12 NEED FOR COMPLIANCE WITH OTHER LAWS**

Nothing in this By-law shall exempt any person from complying with the requirements of any other legislation or by-law in force or from obtaining any license, permission, permit authority or approval required by this By-law, any other by-law or any other legislation.

Where Conservation Authority Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses (O. Reg. 172/06 and 179/06), are in force and effect, a permit from the Conservation Authority having jurisdiction, shall be obtained pursuant to the provisions of the *Conservation Authorities Act* prior to the following:

- a) The construction, reconstruction or erection of a building or placing of fill;
- b) Changes that would alter the use, or potential use, size or dwelling units of a building or structure; and
- c) Works within or around a wetland or watercourse.

Lands that are regulated include floodplains, erosion hazards, wetlands, watercourses, hazardous soils and shorelines.

## **1.13 VIOLATIONS AND PENALTIES**

Any person who contravenes this By-law is guilty of an offense and each day a breach of this By-law continues constitutes a separate offence. Upon conviction for an offence, the person convicted is liable to discontinuation of land use and/or fines as provided for under the *Planning Act*.

## **1.14 REPEALS OF PREVIOUS BY-LAWS**

All previous Zoning By-laws, and all amendments thereto, are hereby repealed except to give effect to the transitional provisions in Section 1.16 of this By-law or to give effect to the exceptions of this By-law.

## **1.15 TECHNICAL REVISIONS TO THE ZONING BY-LAW**

Provided that the purpose and effect of this By-law is unaffected, the following technical revisions to this By-law shall be permitted without a Zoning By-law Amendments:

- a) Correction to grammatical, mathematical, boundary or other such errors, including minor technical revisions to the mapping consistent with the intent of this By-law and the Town's Official Plan;

- b) Changes to the numbering of sections, the numbering contained in the cross-referencing of sections, and the format and arrangement of the text, tables, schedules and maps, and the numbering of pages;
- c) Corrections or revisions to the technical information contained on schedules, such as the title blocks, legend and updated parcel fabric;
- d) Changes to the illustrations or the Preamble, which are not considered to form part of this By-law;
- e) Changes resulting from the removal of a Holding (H) Symbol; and
- f) Changes to the Environmental Feature mapping resulting from the submission of an approved Environmental Impact Study, which has been approved by the appropriate authority.

## **1.16 TRANSITIONAL PROVISIONS**

### **1.16.1 Building Permit Applications**

Nothing in this By-law shall prevent the erection of a use of a building or structure for which an application for a building permit was filed on or prior to the date of passage of this By-law, if the application complies, or the building permit application is amended to comply, with the provisions of the former By-law 1136 (1987) as it read on the date of passage of this By-law. For the purposes of this section, an application for a building permit means the application for a building permit which satisfies the requirements set out in the *Building Code Act*, as amended.

### **1.16.2 Minor Variance**

Where the Committee of Adjustment of the Town or the Ontario Land Tribunal has authorized a minor variance, in respect of any land, building or structure and the decision of the Committee of Adjustment of the Town or the Ontario Land Tribunal authorizing such a minor variance has become final and binding prior to the enactment of this By-law, the provisions of this By-law, as they apply to such land, building or structure shall be deemed to be modified to the extent necessary to give effect to such minor variance.

### **1.16.3 Consent**

- a) Where:
  - i. An application is made for consent to convey land under Section 50 of the *Planning Act*, prior to enactment of this By-law; and
  - ii. That consent is granted and that land is conveyed before the consent lapses; and



- iii. That consent results in the creation of one or more lots which do not comply with the lot frontage or lot area requirements of this By-law;

Then, each such lot created is deemed to comply with the lot frontage and lot area requirements of this By-law provided that the lot created complies with the lot frontage and lot area requirements of the applicable zoning prior to the date of adoption of this By-law.

b) Where:

- i. An application for consent has been approved and a long form certificate has been issued by the Town in accordance with Section 53(42) of the *Planning Act*; and
- ii. The conveyance has not occurred prior to the date of adoption of this Zoning By-law;

Said lot shall be deemed to comply with the lot frontage and lot area of the zone in which the lot is located; provided such lot complied with the lot frontage and lot area requirements of the applicable zoning prior to the date of adoption of this By-law.

#### **1.16.4 Site Plan**

Where a Site Plan Agreement has been entered into prior to the effective date of this By-law, and the timeframes specified in the Agreement have not yet lapsed, the provisions of this By-law, as they apply to such land, building or structure, shall be deemed to be modified to the extent necessary to give effect to such Site Plan Agreement.