

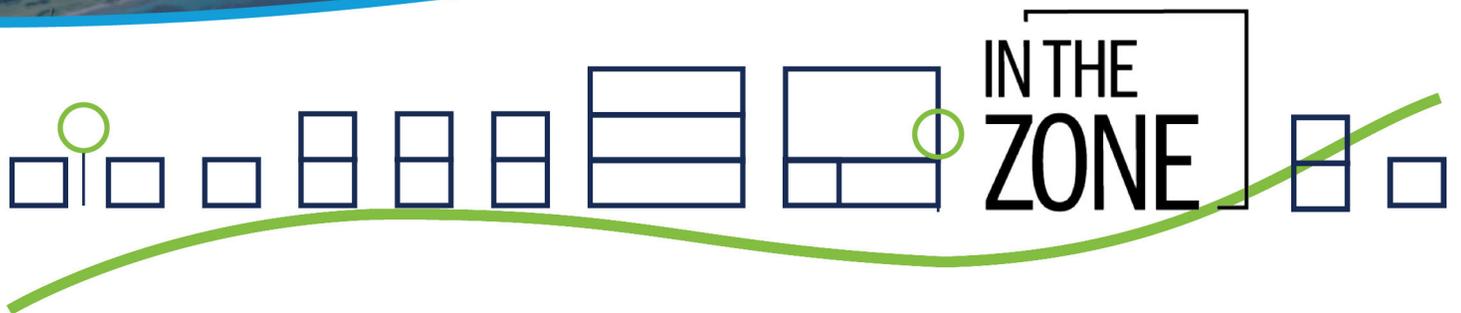
Prepared By:



General Provisions Report

Whitby Zoning By-law Review Study

June 2020



Prepared For:



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Appendix A: Excerpts of Example Zoning By-laws

1 Introduction



This report forms part of the Whitby Zoning By-law Review Study, a comprehensive phased undertaking that sets out to update Whitby's existing zoning by-laws into a new single Comprehensive Zoning By-law for the Town. The overall intent of the Zoning By-law Review Study is to create a new zoning by-law that will implement the Official Plan, that is clear, concise and easy to read and which provides necessary land use and built form direction while being flexible in implementation where appropriate.

The objective of this report is to review and evaluate the general provisions sections of the Town of Whitby's zoning by-laws.

The undertaking included a review of the general provisions sections in the Town's existing zoning by-laws, Zoning By-Law #1784 ("1784"), Zoning By-Law #2585 ("2585") and Oak Ridges Moraine Zoning By-Law #5581-05 ("5581-05"). The purpose of the review is to understand how each By-law is laid out and if each zoning by-law has components that can be carried forward, if appropriate, into Whitby's new Comprehensive Zoning By-law. The undertaking also included a review of other municipalities' zoning by-laws to gain insight into new general provisions that can be considered for inclusion in the new Comprehensive Zoning By-law.

This information is intended to assist in preparing a comprehensive and clear general provisions section for Whitby's new Comprehensive Zoning By-law.

2 Existing Zoning By-Laws

2.1 Similarities and Differences Between Existing Zoning By-laws

The review and analysis of the existing zoning by-laws consisted of a comparison of the subsections in the general provisions sections of each of the three Town of Whitby zoning by-laws. **Table 1** provides a comparison of the different subsections of each of the By-laws.

Since each of the general provisions sections of the three existing zoning by-laws are organized differently, the key provisions they address are laid out in different orders across the zoning by-laws, often under different subheadings. In **Table 1**, the first column describes the intent of the provision in as simple wording as possible. Each of the subsequent columns describes whether or not this provision/intent is addressed in each of the zoning by-laws, and if so, by which section and any relevant notes on that section.

Town of Whitby Staff have provided comments on the existing zoning by-laws to inform the review. Staff comments have been added to **Table 1**.

While By-law #5581-05 addresses parking and loading provisions within the general provisions section, all parking and loading provisions will be addressed in a separate report as part of Phase 1 of this Study, and are thus not addressed as part of this report.

The general provisions sections of Zoning By-laws 1784 and 2585 are extensive and contain a number of provisions that are not addressed in Zoning By-law 5581-05. While many of the provisions are similar across the zoning by-laws, they are sometimes also quite different, some with more succinct and clear wording in one Zoning By-law, compared to a similar provision in another, as noted in **Table 1**. Notes or concerns with some of the intents or wordings of the provisions are provided in **Table 1**.

Zoning By-laws 1784 and 2585 date back to 1960 and 1965 but have been amended over the years. In addition to the general provisions section at the beginning of the zoning by-laws, Zoning By-law 1784 and 2585 each contain separate sections on the Village of Brooklin Central Core Area, dating back to 1995 and the Downtown Secondary Plan dating back to 1991. Both sections contain unique general provisions. The West Whitby section of Zoning By-law 1784 was more recently added to the zoning by-law, in 2017. As part of the preparation of this section, a review of the existing general provisions and opportunities to update and simplify were considered. As such, the general provisions in the West Whitby section of the zoning by-law may, in cases, serve as useful examples for modified or updated wording. Thus, the general provisions section for West Whitby has been included in **Table 1** for comparison purposes.

A recommendation on whether the provision should be included in the new Comprehensive Zoning By-law is provided in the last column of **Table 1**.

Table 1: Comparison of existing Whitby Zoning By-laws

	Zoning By-law #1784	Zoning By-law #2585	Oak Ridges Moraine Zoning By-law #5581-05	West Whitby Section 14 (Zoning By-law #1784)	Carry forward intent of Provision?
<p>Public Uses: That this zoning by-law shall not prevent the use of land for public uses.</p>	<p>✓ Addressed in 4.a).</p> <p>Issues/Comments: <ul style="list-style-type: none"> • In i), provides a detailed list of permitted uses in all zones which 2585 does not provide, but is less detailed in terms of the description of utilities permitted in ii). • References to residential zones in ii)c) is incomplete. • Opportunity to update to reflect modern uses, language and legislation. </p>	<p>✓ Addressed in 6.16.</p> <p>Issues/Comments: <ul style="list-style-type: none"> • Subsection a) is very legal and complicated to read. • Subsection b) appears to, in much simpler wording, duplicate the intent of section a). • Subsection c) is confusing and the intent is unclear. • Opportunity to update to reflect modern uses, language and legislation. </p>	<p>✗</p>	<p>✓ Addressed in 14.2.1</p> <p>Issues/Comments: <ul style="list-style-type: none"> • In i), wording is simpler than 1784 4a)i), omitting references to monuments, fountains etc. • Subsection b) is similar to 1784 a)ii) in intent, but removes reference to specific government bodies and agencies and does not include 4ii)c) of 1784. (Simpler wording.) • Subsection c) provides new exemptions to the provisions. </p>	<p>✓</p>
<p>Excepted Lands and Buildings (Legal Non-conformity): Addresses legal-nonconforming uses.</p>	<p>✓ Addressed in 4b)i).</p> <p>Issues/Comments: <ul style="list-style-type: none"> • Same wording as in 2585. </p>	<p>✓ Addressed in 6.5)a).</p> <p>Issues/Comments: <ul style="list-style-type: none"> • Same wording as in 1784 4b)i). </p>	<p>✓ Addressed in 4.4a.</p> <p>Issues/Comments: <ul style="list-style-type: none"> • Requires the legal non-conforming use was in existence as of Nov. 15, 2001. </p>	<p>✓ Addressed in 14.2.2.</p> <p>Issues/Comments: <ul style="list-style-type: none"> • Same wording in 14.2.2 a) as 1784 4b)i). </p>	<p>✓ Need to ensure provision addresses ORM requirements (that legal non-conforming use was in existence as of Nov. 15, 2001) in ORM area only.</p>
<p>Provides permission to construct/modify a prohibited use within 2 years of passing of zoning by-law, if plans had already been approved.</p>	<p>✓ Addressed in 4b)ii).</p> <p>Issues/Comments: <ul style="list-style-type: none"> • Same wording as in 2585. Is long and complicated to read • It is Transition provision that was void 2 years after each By-law was passed and likely should have been removed. </p>	<p>✓ Addressed in 6.5)b).</p> <p>Issues/Comments: <ul style="list-style-type: none"> • Same wording as in 1784. Is long and complicated to read. • It is Transition provision that was void 2 years after each By-law was passed and likely should have been removed. </p>	<p>✓ Addressed in 4.4</p> <p>Issues/Comments: <ul style="list-style-type: none"> • Requires the use was used as of Nov. 15, 2001. • Requires the permit issued as of Nov. 15, 2001, and no 2 year deadline. • Section 4.4 also contains other provisions. </p>	<p>✗</p>	<p>✓ Need to ensure provision carried forward addresses ORM requirements in ORM area only.</p>

	Zoning By-law #1784	Zoning By-law #2585	Oak Ridges Moraine Zoning By-law #5581-05	West Whitby Section 14 (Zoning By-law #1784)	Carry forward intent of Provision?
<p>Greater Restrictions: That this zoning by-law does not invalidate restrictions from other governmental authorities.</p>	<p>✓ Addressed in 4c).</p> <p>Issues/Comments: • Wording the same across the three zoning by-laws.</p>	<p>✓ Addressed in 6.8).</p> <p>Issues/Comments: • Wording the same across the three zoning by-laws.</p>	<p>✓ Addressed in 4.7.</p> <p>Issues/Comments: • Wording the same across the three zoning by-laws.</p>	<p>✓ Addressed in 14.2.5.</p> <p>Issues/Comments: • Wording is the same as 1784 4c).</p>	<p>✗</p> <p>This provision is unique to Whitby and is not commonly seen in other zoning by-laws. It is not necessary.</p>
<p>Lots Having Less Area and/or Depth and/or Frontage: Buildings and structures can be constructed on lots that are smaller than the requirements within this zoning by-law if so at the time the by-law comes into effect.</p>	<p>✓ Addressed in 4d).</p> <p>Issues/Comments: • Same wording across the three zoning by-laws, except for reference to specific registered plans. • Should confirm these plans are still relevant and consider placing in site specific provision.</p>	<p>✓ Addressed in 6.12.</p> <p>Issues/Comments: • Generally same wording across the three zoning by-laws. May consider options to simplify wording.</p>	<p>✓ Addressed in 4.14.</p> <p>Issues/Comments: • Generally same wording across the three zoning by-laws. May consider options to simplify wording.</p>	<p>✓ Addressed in 14.2.4.</p> <p>Issues/Comments: • Same wording at 1784 4d), except with regards to exemptions to specific plans.</p>	<p>✓</p>
<p>Frontage on Public Street: That a lot must front on a public street of at least 20 metres in width.</p>	<p>✓ Addressed in 4e).</p> <p>Issues/Comments: • Intents generally similar across the three zoning by-laws, with some differences in wordings and references to different exemptions. • Consider moving “improved street” definition to definition section. • Restricts both alternative road designs and development on condo/private roads.</p>	<p>✓ Addressed in 6.7.</p> <p>Issues/Comments: • Intents generally similar across the three zoning by-laws, with some differences in wordings and references to different exemptions. • Consider further if reference to 10 metres, unique to this by-law, is necessary and consider moving “improved street” definition to definition section.</p>	<p>✓ Addressed in 4.6.</p> <p>Issues/Comments: • Intents generally similar across the three zoning by-laws, with some differences in wordings and no reference to exemptions. • Not clear what the difference between Subsection a) and b) is.</p>	<p>✓ Addressed in 14.2.6.</p> <p>Issues/Comments: • Addresses similar intent as 1784 4e) in simpler wording and also addresses 0.3metre reserve and application of the provision for private streets.</p>	<p>✓</p> <p>Need to ensure updated to reflect opportunity for common element condo and potential for revised road design, less than 20 metres in width.</p>

	Zoning By-law #1784	Zoning By-law #2585	Oak Ridges Moraine Zoning By-law #5581-05	West Whitby Section 14 (Zoning By-law #1784)	Carry forward intent of Provision?
<p>Reduction of Requirements: Use, lot and building must meet zoning by-law requirements, and where conveyance for a public road occurs the remaining lot/use/building can continue to be used.</p>	<p>✓ Addressed in f)</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Wording could be simplified to improve clarity, particularly to split out the two distinct points the provision makes. 	<p>✓ Addressed in 6.17.</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Same wording as in 1784, again should consider clarifying and splitting out the two different points. 	<p>✓ Addressed in 4.18.</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Same duplication of intent as 4.14. 	<p>✓ Addressed in 14.2.7.</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Wording is the same as 1784 4f). 	<p>✓</p>
<p>Sight Triangles: Sight requirements on corner lots.</p>	<p>✓ Addressed in 4g).</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • This may be confusing to readers not familiar with sight triangles; could consider an illustration. • Addresses a 15 metre sight triangle but does not address obstruction by buildings and structures. • Need to confirm standards with Public Works/Engineering and employ consistent standard. • More user friendly terminology needed and no need for diagonal line on visibility triangles. • Should clarify confusion between a sight triangle and a visibility triangle. 	<p>✓ Addressed in 6.18.</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Wording more confusing than in 1784. • Does not address plantings which may cause obstructions. • Addresses a 9 metres sight triangle. • Does address instances where street lines are not perpendicular. • Alternative standards may be required in the downtowns, to accommodate street furniture and such amenities and should be enforced more. • Otherwise similar comments to 1784 4g). 	<p>✓ Addressed in 4.22.</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Same wording as in 1784. • Does not address obstruction by buildings and structures. • Need to confirm standards with Public Works/Engineering and employ consistent standard. 	<p>✓ Addressed in 14.2.8.</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • More detailed than in 1784 4g), addressing both visibility and sight triangle. • Could be used as base for updated provisions for new Comprehensive Zoning By-law. 	<p>✓</p> <p>This provision requires thorough review with appropriate Town staff to implement consistent and functional requirements across Town., addressing both sight triangle and visibility triangle.</p>

	Zoning By-law #1784	Zoning By-law #2585	Oak Ridges Moraine Zoning By-law #5581-05	West Whitby Section 14 (Zoning By-law #1784)	Carry forward intent of Provision?
<p>Building Repair: This zoning by-law does not prevent repairs of non-conforming uses as long as they do not cause major changes which contravene the provisions of the zoning by-law.</p>	<p>✓ Addressed in 4h).</p> <p>Issues/Comments: • Not clear if this would apply to a non-conforming standard, as well as use.</p>	<p>✓ Addressed in 3a).</p> <p>Issues/Comments: • The wording and scope of this provision is clearer than in 1784, as it is not specific to non-conforming uses. • Also it addresses building additions. • Could change “part of any such building or structure” to “ part thereof” to simplify.</p>	<p>✓ Addressed in 4.3.</p> <p>Issues/Comments: • Similar wording to 1784 except that it references the date of November 15, 2001.</p>	<p>✓ Addressed in 14.2.3.</p>	<p>✓</p> <p>Need to ensure provision carried forward addresses ORM requirements in ORM area only.</p>
<p>Continuation of Farming Uses: Nothing in this zoning by-law prevents continued use of land for farming.</p>	<p>✓ Addressed in 4i).</p>	<p>✗</p>	<p>✗</p>	<p>✓ Addressed in 14.2.9.</p> <p>Issues/Comments: Wording is the same as 1784 4i).</p>	<p>✗</p> <p>This provision is unique to 1784 and is not commonly found in zoning by-laws in general. Does not need to be included in the new Comprehensive Zoning By-law.</p>
<p>Accessory Uses: Where a land use, building or structure is allowed, it shall include accessory uses.</p>	<p>✓ Addressed in 4j).</p> <p>Issues/Comments: • Could add the word “normally” prior to the word “incidental” to convey the accessory use must be reasonable.</p>	<p>✓ Addressed in 6.2).</p> <p>Issues/Comments: • These provisions actually address accessory buildings. Should consider placing this information in a table.</p>	<p>✗</p>	<p>✓ Addressed in 14.2.13.</p> <p>Issues/Comments: • Wording is the same as 1784 4j).</p>	<p>✓</p> <p>Consideration will be given to combining this provision with other accessory building and structure provisions.</p>

	Zoning By-law #1784	Zoning By-law #2585	Oak Ridges Moraine Zoning By-law #5581-05	West Whitby Section 14 (Zoning By-law #1784)	Carry forward intent of Provision?
<p>Existing Registered Plans: Zone provisions for specific lots with existing registered plans.</p>	<p>✓ Addressed in 4k).</p> <p>Issues/Comments: Should probably be addressed as site specific provisions, not in the general provisions section, as it appears to provide lot and building standards for specific draft plans.</p>	<p>✗</p>	<p>✗</p>	<p>✗</p>	<p>✗</p> <p>These should be addressed as unique site specific exceptions.</p>
<p>Roads: Road allowance widths and building setbacks for specified roads.</p>	<p>✓ Addressed in 4l).</p> <p>Issues/Comments: • Town staff input indicates that the purpose and appropriateness of this provision needs to be reviewed</p>	<p>✗</p>	<p>✓ Addressed in 4.20.</p> <p>Issues/Comments: • Town staff input indicates that the purpose and appropriateness of this provision needs to be reviewed</p>	<p>✗</p>	<p>?</p> <p>Needs further review, may be able to be deleted.</p>
<p>Ten Per Cent (10%) of Every Lot (Landscaping): This area must be used for sodding and/or planting.</p>	<p>✓ Addressed in 4m).</p> <p>Issues/Comments: • Need to review appropriateness of this provision and whether it is zone specific. • Consider need for landscape strip as opposed to % landscaping, per zone/type of zone.</p>	<p>✓ Addressed in 6.15.</p> <p>Issues/Comments: • Provides requirements relating to width, content, location of landscaped open space. • Need to review appropriateness of this provision and whether it is zone specific.</p>	<p>✓ Addressed in 4.11.</p> <p>Issues/Comments: • Similar wording to that in 1784, but simpler wording at the beginning of the provision. • Again, requirement may not be appropriate in all settings.</p>	<p>✗</p>	<p>?</p> <p>Landscape provisions require further review to determine if appropriate, and in what form and applicable to which zones. May be appropriate to address by zone and not in the general provisions section.</p>
<p>Sign Regulations: Provisions of zoning by-law don't prevent erection of signs that conform with sign by-law.</p>	<p>✗</p> <p>Issues/Comments: • Was formally addressed in 4p) but repealed by By-law 544-71.</p>	<p>✓ Addressed in 6.19.</p>	<p>✗</p>	<p>✗</p>	<p>✗</p> <p>Delete as this is addressed by sign by-law.</p>

	Zoning By-law #1784	Zoning By-law #2585	Oak Ridges Moraine Zoning By-law #5581-05	West Whitby Section 14 (Zoning By-law #1784)	Carry forward intent of Provision?
<p>Public Garages: Provisions for public garages, specifically ramps.</p>	<p>✓ Addressed in 4q).</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Not clear what type of ramps are being referred to. • Purpose and need for this provision to be reviewed with Public Works department. 	<p>x</p>	<p>✓ Addressed in 4.17.</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Generally the same provisions as in 1784. 	<p>x</p>	<p>?</p> <p>This provision to be further reviewed with Public Works to determine appropriateness.</p>
<p>Lanes as Yards: Half of the width of a lane abutting a yard may be used to meet lot area and rear yard requirements.</p>	<p>✓ Addressed in 4r).</p>	<p>✓ Addressed in 6.10.</p> <p>Issues/Comments: Wording slightly more complicated than in 1784.</p>	<p>✓ Addressed in 4.12.</p>	<p>x</p>	<p>x</p> <p>By allowing part of the rear yard to be used as a lane, it limits usable private amenity space required to be provided in a rear yard.</p>
<p>Greenbelt Zones: These zones shall not be used to calculate lot area, frontage, coverage or yards in adjacent zones.</p>	<p>✓ Addressed in 4s).</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Provisions omit discussion of lot depth. • Zoning by-law states that the zone boundary shall be no closer than 30.5m from the centre of a river, stream or watercourse; this is difficult to enforce as most watercourses change over time. 	<p>x</p>	<p>x</p>	<p>✓ Addressed in 14.2.10.</p> <p>Issues:/Comments:</p> <ul style="list-style-type: none"> • Wording is the same as 1784 4s). 	<p>?</p> <p>Further review needed to consider if provision should be maintained.</p>
<p>Special Exemptions: Provides a number of site specific provisions.</p>	<p>✓ Addressed in 4t).</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • This section should be captured with the other site specific provisions. 	<p>x</p>	<p>x</p>	<p>x</p>	<p>x</p> <p>These should be addressed as unique site specific exceptions.</p>

	Zoning By-law #1784	Zoning By-law #2585	Oak Ridges Moraine Zoning By-law #5581-05	West Whitby Section 14 (Zoning By-law #1784)	Carry forward intent of Provision?
<p>Rooms Below Grade: Shall not be used as a dwelling unit.</p>	<p>x</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Was formally addressed in 4u) but repealed by By-law 6312-10. 	<p>x</p>	<p>✓</p> <p>Addressed in 4.21.</p>	<p>x</p>	<p>x</p> <p>This is an archaic provision that is not necessary as it is addressed by the building code.</p>
<p>Swimming Pools: Sets out permitted locations for swimming pools.</p>	<p>✓</p> <p>Addressed in 4v).</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Does not address any uses accessory to a pool, such as pool heating. • Consider if wording can be simplified between Subsections i) and ii). 	<p>✓</p> <p>Addressed in 6.2g).</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Same wording as in 1784, but also includes provision for swimming pools in front yards on corner lots. 	<p>✓</p> <p>Addressed in 4.2.5.</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Same wording as in 1784. 	<p>✓</p> <p>Addressed in 14.2.11.</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Wording is generally the same intent as 1784 4v) with added provisions for maximum height. 	<p>✓</p>
<p>Satellite Dishes: Sets out the permitted locations and standards for satellite dishes.</p>	<p>✓</p> <p>Addressed in 4w).</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Need to consider if these provisions are still relevant given rarity of satellite dishes. 	<p>✓</p> <p>Addressed in 6.2h).</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Need to consider if these provisions are still relevant given rarity of satellite dishes. 	<p>✓</p> <p>Addressed in 4.2.4.</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Need to consider if these provisions are still relevant given rarity of satellite dishes. 	<p>✓</p> <p>Addressed in 14.2.12.</p>	<p>x</p> <p>This provision should not be carried forward as satellite dishes are becoming rare. If present, would be required to meet other yard and height requirements laid out in the zoning by-law and thus should not be a nuisance.</p>

	Zoning By-law #1784	Zoning By-law #2585	Oak Ridges Moraine Zoning By-law #5581-05	West Whitby Section 14 (Zoning By-law #1784)	Carry forward intent of Provision?
Accessory Buildings/Structures:	<p>x</p> <p>Was formally addressed in 4x)</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Repealed by By-law 5993-07. • Accessory structures and buildings are actually addressed under Accessory Uses and Yard Encroachment Provisions. 	<p>✓</p> <p>Addressed in 6.2a)</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Repealed by By-law 5994-07. • Accessory structures and buildings are actually addressed under Accessory Uses and Yard Encroachment Provisions. 	<p>✓</p> <p>Addressed in 4.2.1.</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • See comparison under accessory uses. 	<p>✓</p> <p>Addressed in 14.2.14</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Wording is similar to 1784's Accessory Uses and Yard Encroachment Provisions 4y) but updated. 	<p>✓</p> <p>See notes under Accessory Uses and Yard Encroachment Provisions, which should be updated and given a better name to reflect that it addresses both accessory buildings and structure.</p>

	Zoning By-law #1784	Zoning By-law #2585	Oak Ridges Moraine Zoning By-law #5581-05	West Whitby Section 14 (Zoning By-law #1784)	Carry forward intent of Provision?
<p>Accessory Buildings (referred to in the zoning by-laws as Uses and Yard Encroachments Permitted): Permitted uses, locations, setbacks, maximum heights and roof types for accessory buildings.</p>	<p>✓ Addressed in 4y),</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • The title is misleading. • Should consider use of table for this section. • Not clear what difference is between Sections c)ii) and c)iii). • Consider school portables. • Update to include gazebo style roof or eliminate roof types and ban quonset hut style roof. • Add setback for wall with a window or door such as 1.2m. • Eliminate lot coverage of 50% of the main dwelling as it unfairly punishes people with small houses. • Include provisions for non-residential accessory structures (i.e., sheds for churches and commercial uses, garbage enclosures etc.). • Use accessory use/structure instead of "in conjunction with" when setting out a subordinate use. • Include illustration for location description. • Description for (y)(b)(i) is extremely complex for what it actually says. • Clarify that shipping containers are not permitted in residential areas. • Review setbacks (i.e. many variances to 4.5m Exterior Side Yard). • Review lot coverage, the three different calculations is confusing for residents; maybe simplify by just having a % and or size. • Review accessory structures in agricultural zones. 	<p>✓ Addressed in 6.2b) and c).</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Generally same wording as in 1784. • Similar comments/items to address as in 1784. 	<p>✓ Addressed in 4.2.1.</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Consider adding maximum lot coverage for agricultural and commercial zones and increasing maximum permitted height. 	<p>✓ Addressed in 14.2.13</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Different wording/provisions than 1784 4y). 	<p>✓</p> <p>This section requires a thorough review and update to address comments, and organize into a clear, comprehensive table.</p>

	Zoning By-law #1784	Zoning By-law #2585	Oak Ridges Moraine Zoning By-law #5581-05	West Whitby Section 14 (Zoning By-law #1784)	Carry forward intent of Provision?
Yard Encroachments Permitted: Structures permitted to encroach into a yard.	✓ Addressed in unnumbered section (following subsection 4y)). Issues/Comments: <ul style="list-style-type: none"> • This section could perhaps be organized into a table. • Need a setback for retaining/landscape walls. Perhaps 0.5 to 1.0m from property line to allow for drainage and maintenance. • Where front yard setback is only 3m, front yard infiltration (LIDs) cannot be permitted according to OBC setback requirements. • Should clarify if this section applies to houses only or also to commercial etc.; • Consider including an image to explain the various encroachments. • Update (iii) to include a larger range, 0.6 to 1.2m is very limiting, what about below or above? • Revise 1.5m from water's edge for deck around pool. If you can do a full deck in a yard without a pool why does it have to be smaller if there happens to be a pool? • Fix issue of "shall" or "may" because "may" is not enforceable in By-laws in the courts. • Rear yard setbacks to decks and porches need to be reviewed. • Organize in chart form for clarity. • Provision for decks in an Interior Side Yard between 0.6m and 1.2m above grade can be problematic on small lots and need to be reviewed. • Address steps below grade. 	✓ Addressed in 6.23. Issues/Comments: <ul style="list-style-type: none"> • Similar comments/issue identified for 1784. • Addresses additional provisions related to fire escapes, rail spurs, gate houses and docking structures not in 1784. • Rear yard setbacks to decks and porches need to be reviewed. • Provision for decks in an Interior Side Yard between 0.6m and 1.2m above grade can be problematic on small lots and need to be reviewed . • Patio provisions for non-residential. 	✓ Addressed in 4.24. Issues/Comments: <ul style="list-style-type: none"> • Similar to issues comments noted for 1784/2585. 	✓ Addressed in 14.2.15 Issues/Comments: <ul style="list-style-type: none"> • Organized into a table with more detailed provisions than 1784. 	✓ Update in table form. Consistent front yard setback should be pulled out into a separate provision.

	Zoning By-law #1784	Zoning By-law #2585	Oak Ridges Moraine Zoning By-law #5581-05	West Whitby Section 14 (Zoning By-law #1784)	Carry forward intent of Provision?
Group Homes: Definition of Group Homes, as well as where they are permitted.	✓ Addressed in 4z). Issues/Comments: <ul style="list-style-type: none"> • Subsection iii) references type of residents which may not meet Human Rights requirements. • Should eliminate buffer from other homes as it contradicts human rights. • Review types of residential zones in which these should be permitted. • Is there an Act that regulates these? Minimum GFA or number of bedrooms etc. 	✓ Addressed in 6.26. Issues/Comments: <ul style="list-style-type: none"> • Generally provides the same wording as 1784. • Other similar concerns as per 1784 4z). 	✓ Addressed in 4.9. Issues/Comments: <ul style="list-style-type: none"> • Addresses permission for the use and does not provide additional restrictions of being on certain types of roads or separation distances. 	✓ Addressed in 14.2.16 Issues/Comments: <ul style="list-style-type: none"> • Provides updated requirements, removing reference to specific residents. 	✓ Requires comprehensive review to ensure appropriate requirements can be carried forward but not so as to impose any restrictions that regulates users vs. use or otherwise infringes on human rights.
Residential Sales Offices: Permitted locations.	✓ Addressed in 4aa). Issues/Comments: <ul style="list-style-type: none"> • For c), should also permit residential sales office in commercial areas and potentially institutional zones. • Permit these to be located outside of the proposed development. 	✓ Addressed 6.28. Issues/Comments: <ul style="list-style-type: none"> • Generally the same wording as in 1784, similar changes recommended. 	✓ Addressed in 4.19. Issues/Comments: <ul style="list-style-type: none"> • Generally the same wording as in 1784, similar changes recommended. 	✓ Addressed in 14.2.7. Issues/Comments: <ul style="list-style-type: none"> • Generally, the same wording and intent as 1784, similar changes recommended. 	✓
Model Home: Permitted locations.	✓ Addressed in 4bb). Issues/Comments: <ul style="list-style-type: none"> • Zoning by-law notes that model homes require draft plan approval from Durham Region. Outdated language as the Region is no longer the approval authority; • Update that lands have to have draft plan approval. 	✓ Addressed in 6.29. Issues/Comments: <ul style="list-style-type: none"> • Provides similar provisions as in 1784. 	✓ Addressed in 4.15. Issues/Comments: <ul style="list-style-type: none"> • Provides similar provisions as in 1784 and 2585, except a maximum of 3 model homes are permitted per phase of development as opposed to 10. 	✓ Addressed in 14.2.18. Issues/Comments: <ul style="list-style-type: none"> • Wording is the same as 1784 4bb). 	✓

	Zoning By-law #1784	Zoning By-law #2585	Oak Ridges Moraine Zoning By-law #5581-05	West Whitby Section 14 (Zoning By-law #1784)	Carry forward intent of Provision?
<p>Recreational Propane Sales: Zones in which this use is permitted.</p>	<p>✓ Addressed in 4cc).</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Should address interpretation that they can also be sold as an accessory use where BBQs are sold (Home Depot, Canadian Tire etc.) 	<p>✓ Addressed in 6.30.</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • References Gasoline Handling Act regulations specifically, where 1784 does not. 	<p>x</p>	<p>x</p>	<p>?</p> <p>This provision may ultimately be better suited in a commercial zone section as opposed to the general provisions section.</p>
<p>Accessory Apartment: Provides provisions for accessory apartments in single detached or semi-detached dwellings.</p>	<p>✓ Addressed in 4dd).</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Matches provisions in 2585. • Update to reflect Act which permits the use in accessory buildings and permits two accessory apartments per dwelling. • Should consider addressing townhouses and links. • Consider eliminating lot frontage or reducing it to 9 metres since it is redundant to Front Yard Landscaped Open Space and reducing Front Yard Landscaped Open Space requirement. • Consider need for two parking spaces side by side. • Consider clearer requirements for what qualifies as an accessory apartment. • Percent total floor area is confusing as there is no definition. • Must update to reflect O. Reg and Planning Act changes. 	<p>✓ Addressed in 6.32.</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Matches provisions in 1784. • Similar considerations as identified in 1784 4dd). 	<p>x</p>	<p>✓ Addressed in 14.2.19.</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • The wording is generally the same as in 1784 4dd). Provisions for max floor area (100 sqm.) and front yard landscaping (min. 25%) differ. 	<p>✓</p> <p>This provision requires thorough review with appropriate Town staff to implement consistent and functional requirements.</p>

	Zoning By-law #1784	Zoning By-law #2585	Oak Ridges Moraine Zoning By-law #5581-05	West Whitby Section 14 (Zoning By-law #1784)	Carry forward intent of Provision?
<p>Home Based Business: The provisions applying to home based businesses.</p>	<p>✓ Addressed in 4ee).</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Generally matches provisions 2585. • Should clarify if g) applies to online sales. • The need to add regulations around deliveries will be reviewed. • Consider adding restrictions to pet daycare • Consider use of subsection titles to organize these provisions. • Review need for required parking and/or for licensing. • Should consider allowing in accessory structures or garages. • Could consider if additional employee permitted outside of the downtowns. • Remove restriction on operating a Home Based Business in a dwelling with an accessory apartment per O. Reg). • Determine if Airbnb is a home based business and if so consider adding provisions specifically for Airbnb. 	<p>✓ Addressed in 6.33.</p> <p>Issues/Comments:</p> <ul style="list-style-type: none"> • Generally matches provisions in 1784. • Similar comments/issues as raised in 1784. 	<p>✓ Addressed in 4.10.</p>	<p>✓ Addressed in 14.2.20.</p> <p>Issues/Comments: Wording is the same except for (d) and (e) which allow assistance and parking by one employee who is not an occupant, as set out in specified zones.</p>	<p>✓</p>
<p>Application of By-law: That buildings or structures and the use of such must conform to the zoning by-law.</p>	<p>×</p>	<p>✓ Addressed in 6.1.</p>	<p>×</p>	<p>×</p>	<p>✗</p> <p>A similar provisions should be captured in administration/ interpretation section, not the general provisions. section.</p>

	Zoning By-law #1784	Zoning By-law #2585	Oak Ridges Moraine Zoning By-law #5581-05	West Whitby Section 14 (Zoning By-law #1784)	Carry forward intent of Provision?
Building Extensions and Repair Non-conforming buildings can be repaired for safety, without any increase in height, size or volume.	x	✓ Addressed in 6.3a).		✓ Addressed in 14.2.2b).	✓ Consider overlap with other sections on building repair, noted above.
Permits some extension to non-conforming buildings.	x	✓ Addressed in 6.3b).	x	x	✓ Consider overlap with other sections on building repair, noted above.
External Design: Indicates materials that shall not be used on exterior walls.	x	✓ Addressed in 6.6.	x	x	✗ This provision should be addressed in Urban Design Guidelines.
Height Exceptions: the structures for which height provisions shall not apply.	x	✓ Addressed in 6.9. Issues/Comments: • Should consider if additional exceptions are warranted, for example a hydro pole, light standard, cell tower or transformer.	x	x	✓
Planned Width of Street Allowance: That the lot line shall be determined to be the boundary of the planned street allowance.	x	✓ Addressed in 6.14.	x	x	✗ Planned street width sections are proposed to be removed.

	Zoning By-law #1784	Zoning By-law #2585	Oak Ridges Moraine Zoning By-law #5581-05	West Whitby Section 14 (Zoning By-law #1784)	Carry forward intent of Provision?
Special Uses Permitted: Permits tool shed, scaffold or other buildings or structures incidental to construction.	x	✓ Addressed in 6.20. Issues/Comments: • Definition of abandoned should be moved to definition section.	x	x	✓ Could include this provision to address other temporary uses.
Through Lots: Front yard requirements applies on all streets for through lots.	x	✓ Addressed in 6.21. Issues/Comments: • Eliminate this section and add to a definition if necessary.	x	x	✗ Can be addressed in definitions section.
Pits and Quarries: Pits and Quarries not permitted.	x	✓ Addressed in 6.25.	x	x	✗ This matter could be added to a prohibited use provision.
Boarding and Lodging House: 120 metres required between boarding house and group homes.	x	✓ Addressed in 6.27. Issues/Comments: • Eliminate buffer distance from other boarding and lodging houses – human rights issue.	x	x	✗ Remove this provision to not zone users.
Oak Ridges Moraine Boundary: Describes boundary of Oak Ridges Moraine Plan.	x	x	✓ Addressed in 4.1.	x	✗ Not necessary as the zones will address the boundaries of the ORM or if needed include in interpretation section.

	Zoning By-law #1784	Zoning By-law #2585	Oak Ridges Moraine Zoning By-law #5581-05	West Whitby Section 14 (Zoning By-law #1784)	Carry forward intent of Provision?
Detached Garage and Car Ports: Provides yard, height and coverage requirements.	x	x	✓ Addressed in 4.2.3.	x	✓ Consider combining with accessory building provisions.
Existing Uses: That uses that existed as of Nov. 15, 2001 may continue.	x	x	✓ Addressed in 4.5.	x	✓ Need to specify that this applies to the ORM area only.
ORM Environmental Protection Zones: Lot area, frontage, coverage or yards cannot use portion of lands in the ORM-EP zone.	x	x	✓ Addressed in 4.8.	x	? Further review needed to consider if provision should be maintained.
Special Setbacks: Addresses provisions for minimum distance separation.	x	x	✓ Addressed in 4.23.1. Issues/Comments: • This should also apply in any agricultural area in Zoning By-law 1784.	x	✓
Areas of High Aquifer Vulnerability: Prohibits certain uses within these areas.	x	x	✓ Addressed in 4.25.	x	✓

	Zoning By-law #1784	Zoning By-law #2585	Oak Ridges Moraine Zoning By-law #5581-05	West Whitby Section 14 (Zoning By-law #1784)	Carry forward intent of Provision?
Rapid Infiltration Basins and Columns: Prohibits use of these within the Oak Ridges Moraine Plan Area.	x	x	✓ Addressed in 4.26.	x	✓
Single Detached Dwelling on a Lot Allows one single detached dwelling per lot.	x	x	x	✓ Addressed in 14.2.21.	✓
Zero Decimal Three (0.3) Metre Reserves Specifies that the 0.3m reserve constitutes part of an abutting street.	x	x	x	✓ Addressed in 14.2.22.	✓
Standards for Attached Private Garages on Lots Accessed by a Lane Provisions for attached private garages.	x	x	x	✓ Addressed in 14.2.23.	✓ Consider combining with accessory building provisions.

	Zoning By-law #1784	Zoning By-law #2585	Oak Ridges Moraine Zoning By-law #5581-05	West Whitby Section 14 (Zoning By-law #1784)	Carry forward intent of Provision?
Standards for Attached Private Garages on Lots Accessed from a Street Provisions for attached private garages.	x	x	x	✓ Addressed in 14.2.24.	✓ Consider combining with accessory building provisions.
Zone Boundaries Describes the identification of boundary lines.	x	x	x	✓ Addressed in 14.2.25.	✗ This provision section, should be moved to the administration/interpretations section.
Height Exemptions Allows certain items to be exempt from maximum height requirements.	x	x	x	✓ Addressed in 14.2.26.	✓
Holding (H) Zone Provisions: Prohibits use of land until "H" Holding symbol is removed	x	x	x	✓ Addressed in 14.2.27.	✓

Additional area specific provisions are found in By-law 1784 and By-law 2585 which apply to the Village of Brooklin and the Downton Whitby Secondary Plan areas respectively. **Table 2** highlights the categories of additional general provisions addressed in each of these subsections. It is noted that while the Brooklin Area is not part of the scope of this Zoning By-law Study, the General Provision Section from within the Brooklin subsection of By-law 1784 was reviewed simply for information purposes. **Table 2** illustrates some different provisions, including Holding (H) zone symbol provisions, more detailed height exceptions, more detailed non-complying use provisions and an encroachment provision allowing drop awnings to project into the public road allowance. These provisions will be considered in the next phase of the new Comprehensive Zoning By-law review.

Table 2: Other General Provisions

	By-law 1784 Village of Brooklin	By-law 2585 Downtown SP
Application	<ul style="list-style-type: none"> • Outlines the area that the section of the by-law applies to. 	<ul style="list-style-type: none"> • Outlines the area that the section of the by-law applies to.
Holding (H) Zone Symbol	<ul style="list-style-type: none"> • The application of this provision is somewhat unclear due to the wording. 	<ul style="list-style-type: none"> • Similar interpretation problems as in Village of Brooklin provision.
Non-Complying Use	<ul style="list-style-type: none"> • Provides simplified wording to address a use's legal non-conforming standards. Title is a little misleading. It is the standards that don't comply to the by-law that are being addressed, not the use. 	
Non-Complying Lots	<ul style="list-style-type: none"> • Addresses non-complying lots, irrespective if the non-compliance is related to an expropriation. 	
Non-Conforming Uses	<ul style="list-style-type: none"> • Generally combined the Excepted Lands and Buildings and Building Repair provisions of parent general provisions section in Zoning By-law 1784. 	
Landscaped Open Space	<ul style="list-style-type: none"> • Very short provision compared to others reviewed. 	<ul style="list-style-type: none"> • Primarily addresses where landscaped open spaces are to be addressed.

Sight Triangles	<ul style="list-style-type: none"> • Does not address daylighting triangles. 	<ul style="list-style-type: none"> • Does not address daylighting triangles.
Public Service	<ul style="list-style-type: none"> • Generally a clearer provision than similar intent in section 4.1a) (Public Uses) in the parent general provisions section of Zoning By-law 1784. 	<ul style="list-style-type: none"> • Very similar provision to that of the Village of Brooklin section of Zoning By-law 1784.
Height Exceptions	<ul style="list-style-type: none"> • Would require update similar to other height exception sections noted elsewhere in this report, such as to address cell towers. 	<ul style="list-style-type: none"> • Would require update similar to other height exception section noted elsewhere in this report, such as to address cell towers.
Encroachments	<ul style="list-style-type: none"> • Very simplified provision compared to others reviewed, addressing only awnings. 	

3 Zoning By-law Case Studies



Municipalities across Ontario have taken various approaches to the general provisions sections of their zoning by-laws. The following details these approaches and the ways in which they are similar and different to the current general provisions sections in the Town of Whitby's zoning by-laws. Excerpts of the zoning by-laws referenced are provided in **Appendix A**.

This report relies on examples from other zoning by-laws in Ontario. The zoning by-laws used as examples were chosen based on the following factors:

- locale - to review by-laws within southern Ontario;
- approval date - to review more recent by-laws, such as in the case of East Gwillimbury and Vaughan, neither of which are in effect yet;
- clarity - to consider by-laws that had been noted in other planning work as being clear, concise and well organized, such as Milton and Ajax; and
- uniqueness - to review by-laws that brought a unique or interesting element, such as the use of colour in the by-law in St. Catharines or illustrations in Oakville.

3.1 Comparison to Whitby General Provisions

Table 3 provides a summary of other municipalities' zoning by-laws reviewed. The table is broken into a number of sections to assist in organizing information and take-aways.

Table 3: Comparison of General Provisions addressed in different municipalities' By-laws

Provision/Intent	Whitby #1784	Whitby #2585	Whitby #5581-05	Ajax	Barrie	E. Gwillimbury*	Innisfil	Milton	Newmarket	Oakville	St. Catharines	Vaughan - *draft	Welland
Existing Whitby Provisions													
Public Uses: That this zoning by-law shall not prevent use of land for public uses.	✓	✓		✓	✓		✓	✓	✓	✓			✓
Excepted Lands and Buildings (Legal Non-conformity): Addresses legal-non conforming use	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓
Provides permission to construct/modify a prohibited use within 2 years of passing of zoning by-law, if plans had already approved.	✓	✓	✓										
Greater Restrictions: That this zoning by-law does not invalidate restrictions from other governmental authorities.	✓	✓	✓										
Lots Having Less Area and/or Depth and/or Frontage: Buildings and structures can be constructed on lots that are smaller than the requirements within this zoning by-law if so at the time the by-law comes into effect.	✓	✓	✓	✓		✓							
Frontage on Public Street: That a lot must front on a public street.	✓	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓

Provision/Intent	Whitby #1784	Whitby #2585	Whitby #5581-05	Ajax	Barrie	E. Gwillimbury*	Innisfil	Milton	Newmarket	Oakville	St. Catharines	Vaughan -*draft	Welland
Reduction of Requirements Use, lot and building must meet zoning by-law requirements, and where conveyance for a public road occurs the remaining lot/use/building can continue to be used.	✓	✓	✓	✓	✓		✓	✓	✓			✓	✓
Sight Triangles: Sight requirements on corner lots.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓
Building Repair: This zoning by-law does not prevent repairs of non-conforming uses as long as they do not cause major changes which contravene the provisions of the zoning by-law.	✓	✓	✓		✓			✓	✓		✓		✓
Continuation of Farming Uses: Nothing in this zoning by-law prevents continued use of land for farming.	✓												
Accessory Uses: Where a land use, building or structure is allowed, it shall include accessory uses.	✓	✓		✓	✓	✓	✓	✓			✓	✓	✓
Existing Registered Plans: Zone provisions for specific lots with existing registered plans.	✓												
Roads: Road allowance widths and building setbacks for specified roads.	✓		✓				✓		✓				

Provision/Intent	Whitby #1784	Whitby #2585	Whitby #5581-05	Ajax	Barrie	E. Gwillimbury*	Innisfil	Milton	Newmarket	Oakville	St. Catharines	Vaughan -*draft	Welland
Landscaping Requirement: Minimum area or width of landscaping on a lot that must be covered by lawn and/or ornamental shrubs.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
Sign Regulations: Provisions of zoning by-law don't prevent erection of sign that conforms with sign by-laws.	✓	✓											
Public Garages: Provisions for public garages, specifically ramps.	✓		✓										
Lanes as Yards: Half of the width of a lane abutting a yard may be used to meet lot area and rear yard requirements.	✓	✓	✓										
Special Exemptions: Provides a number of site specific provisions.	✓							✓					
Rooms Below Grade: Rooms below grade shall not be used as a dwelling unit.			✓										
Swimming Pools: The permitted locations for swimming pools.	✓	✓	✓			✓	✓	✓	✓	✓		✓	✓
Satellite Dishes: The permitted locations and zones for satellite dishes.	✓	✓	✓	✓				✓	✓				

Provision/Intent	Whitby #1784	Whitby #2585	Whitby #5581-05	Ajax	Barrie	E. Gwillimbury*	Innisfil	Milton	Newmarket	Oakville	St. Catharines	Vaughan -*draft	Welland
Accessory Buildings/Uses: Provisions for accessory buildings and structures.	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓
Yard Encroachments: Provisions applicable to ornamental structures to a principle building encroaching into yards.	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓
Group Homes: Definition of Group Homes, as well as where they are permitted.	✓	✓	✓	✓		✓	✓	✓			✓	✓	✓
Residential Sales Offices (Temporary Sales Office): Permitted locations.	✓	✓	✓		✓	✓	✓	✓	✓			✓	
Model Homes: Permitted locations.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Recreational Propane Sales: Zones in which this use is permitted.	✓	✓											
Accessory Apartments: Provides provisions for accessory apartments in single detached or semi-detached dwellings.	✓	✓		✓		✓	✓	✓	✓	✓	✓	✓	✓
Home Based Business/Home Occupations: The provisions applying to home based businesses.	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓

Provision/Intent	Whitby #1784	Whitby #2585	Whitby #5581-05	Ajax	Barrie	E. Gwillimbury*	Innisfil	Milton	Newmarket	Oakville	St. Catharines	Vaughan -*draft	Welland
Application of By-law: That buildings or structures and the use of such must conform to the zoning by-law.		✓											
Building Extensions and Repair: Non-conforming buildings can be repaired for safety, without any increase in height, size or volume.		✓											
Permits some extension to non-conforming buildings.		✓											
External Design: Indicates materials that shall not be used on exterior walls.		✓											
Height Exceptions: The structures for which height provisions shall not apply.		✓		✓		✓		✓	✓	✓	✓	✓	✓
Planned Width of Street Allowance: That the lot line shall be determined to be the boundary of the planned street allowance.		✓							✓	✓			
Special Uses Permitted: Permits tool shed, scaffold or other buildings and structures incidental to construction.		✓											
Through Lots: Front yard requirements applies on all streets for through lots.		✓						✓	✓				✓

Provision/Intent	Whitby #1784	Whitby #2585	Whitby #5581-05	Ajax	Barrie	E. Gwillimbury*	Innisfil	Milton	Newmarket	Oakville	St. Catharines	Vaughan - *draft	Welland
Pits and Quarries: Pits and Quarries are not permitted.		✓											
Boarding and Lodging House: 120 metres required between boarding house and group homes.		✓											
Oak Ridges Moraine Boundary: Describes boundary of Oak Ridges Moraine Plan.			✓			✓							
Detached Garage and Car Ports: Provides yard, height and coverage requirements.			✓				✓	✓				✓	
Existing Uses: That uses that existed as of Nov. 15, 2001 may continue.			✓										
Environmental Protection Zones: Lot area, frontage, coverage or yards cannot use portion of lands in the ORM-EP or G zone.	✓		✓	✓									
Areas of High Aquifer Vulnerability: Prohibits certain uses within these areas.			✓			✓							
Rapid Infiltration Basins and Columns: Prohibits use of these within the Oak Ridges Moraine Plan Area.			✓										

Provision/Intent	Whitby #1784	Whitby #2585	Whitby #5581-05	Ajax	Barrie	E. Gwillimbury*	Innisfil	Milton	Newmarket	Oakville	St. Catharines	Vaughan -*draft	Welland
Example Provisions not seen in Whitby By-laws - Use													
Uses Permitted in All Zones: The uses identified in this subsection are permitted in all zones.					✓	✓	✓		✓			✓	
Uses Prohibited in all Zones: Outlines prohibited uses.				✓		✓	✓		✓	✓		✓	✓
Temporary Uses: provisions applicable to temporary uses related to construction, sales and customer services.				✓	✓	✓	✓	✓	✓	✓	✓		✓
Outdoor Display and Sales Area: Permitted as an accessory use with the listed provisions.				✓	✓	✓		✓	✓	✓		✓	✓
Number of Dwelling Units on a Lot: One Dwelling unit is permitted on any lot unless otherwise specified.				✓		✓	✓	✓	✓	✓	✓	✓	
Drive-Through Facilities and Stacking Spaces: Stacking Space Requirements for various drive through facilities.					✓		✓						✓
Bed and Breakfast Establishment: Permitted in a detached dwelling with the listed provisions.					✓		✓			✓	✓	✓	✓
Community Garden: shall be permitted in all zones except conservation/natural area zones.					✓						✓	✓	

Provision/Intent	Whitby #1784	Whitby #2585	Whitby #5581-05	Ajax	Barrie	E. Gwillimbury*	Innisfil	Milton	Newmarket	Oakville	St. Catharines	Vaughan -*draft	Welland
Accessory Farm Employee Accommodation: May be permitted subject to a zoning by-law amendment.						✓	✓						
Kennels: Minimum gross floor area, setbacks and separation distance for this use.						✓		✓					
Medical Marihuana Production Facilities: where permitted in the zoning by-law, the listed provisions shall apply.						✓	✓						
Waste Storage, Disposal, Processing and Transfer Areas: Zones and locations on a lot where these uses are permitted along with their specific provisions.						✓	✓	✓	✓	✓		✓	✓
Garden Suites: Shall be permitted on lots zoned for single detached dwellings subject to a Temporary Use By-law.							✓						✓
Restaurant Patios: Permitted in non-residential zones as an accessory use to a restaurant subject to the listed provisions.						✓		✓		✓		✓	✓
Trail Corridors and Playgrounds: Shall be permitted in any zone through a plan approved by a municipal authority.								✓			✓		
Shipping Containers: shall be permitted on lots where outside storage is a permitted use.								✓	✓	✓		✓	

Provision/Intent	Whitby #1784	Whitby #2585	Whitby #5581-05	Ajax	Barrie	E. Gwillimbury*	Innisfil	Milton	Newmarket	Oakville	St. Catharines	Vaughan -*draft	Welland
Home Industries: Shall be permitted as an accessory use within an agricultural or rural zone subject to the listed provisions.							✓	✓	✓			✓	✓
Wayside Pits and Quarries: Use is permitted for public road purposes for the extraction of road building materials.					✓		✓	✓					✓
Outdoor Storage: Where outdoor storage is permitted on a lot.					✓		✓		✓		✓	✓	
Truck, Bus and Coach Bodies: Shall not be used for human habitation.				✓	✓				✓				
Location of Gasoline and Propane Pumps and Canopies/Fuel Tanks: provides provisions for these uses.									✓			✓	
Micro-Industrial Uses: provides provisions for these uses.									✓			✓	
Short-Term Accommodation: provides provisions for this use.										✓		✓	
Utilities: utilities or servicing infrastructure are permitted in any yard in any zone in accordance with the listed provisions.								✓	✓				

Provision/Intent	Whitby #1784	Whitby #2585	Whitby #5581-05	Ajax	Barrie	E. Gwillimbury*	Innisfil	Milton	Newmarket	Oakville	St. Catharines	Vaughan - *draft	Welland
Garden Centres: Shall be permitted as an accessory use to retail and food stores, a contractors yard, a building supply store and a warehouse membership club.								✓		✓			
Example Provisions not seen in Whitby By-laws – Other													
Availability of Municipal Services: No new land uses shall be permitted unless private or municipal services and related capacity are available.					✓		✓		✓	✓		✓	✓
Fences and Privacy screens: Fences and walls are permitted in residential and non-residential zones in accordance with the listed provisions.					✓			✓					✓
Multiple Uses and Zones on one Lot: On lots where multiple uses are permitted, the building or structure must comply with the provisions for all of the zones.						✓	✓	✓				✓	✓
Conformity with an Established Building Line: Structures built between existing buildings may be built with a setback equal to that of the buildings around them.						✓		✓	✓		✓		

Provision/Intent	Whitby #1784	Whitby #2585	Whitby #5581-05	Ajax	Barrie	E. Gwillimbury*	Innisfil	Milton	Newmarket	Oakville	St. Catharines	Vaughan -*draft	Welland
Front Lot Line and Lot Frontage: Length of the front lot line must be between 75% and 125% of the length of lot frontage. (i.e. regulating the minimum and maximum width of the lot at the lot line vs. at frontage measured 7.5 metres back from the lot line.)							✓			✓		✓	
Minimum Distance Separation: Between Livestock Agricultural Uses and Other Land Uses.			✓	✓			✓						✓
Waterfront lots: Provisions regarding required setbacks, building size, naturalized vegetation area and accessory buildings on waterfront lots.							✓						✓
Heating, Ventilation and Air Conditioning Equipment (HVAC): regulations for ground level and roof mounted HVAC.								✓	✓		✓		✓
Highway Corridor Setback: Minimum setback distance from the lot line abutting the boundary of the highway corridor.										✓		✓	✓
Wellhead Protection Areas: provisions applicable to Wellhead Protection Area C which have Restricted Land Uses under the Clean Water Act.						✓	✓					✓	
Special Setbacks: Special setbacks apply to uses such as Railways, Lake Ontario, pipelines and highways.				✓	✓	✓	✓	✓	✓	✓		✓	✓

Provision/Intent	Whitby #1784	Whitby #2585	Whitby #5581-05	Ajax	Barrie	E. Gwillimbury*	Innisfil	Milton	Newmarket	Oakville	St. Catharines	Vaughan -*draft	Welland
Rooftop Mechanical Equipment and Mechanical Penthouses: provide provisions for this use.						✓						✓	
0.3 m Reserves: addresses treatment of 0.3 reserve.										✓		✓	
Conservation Authority Regulated Areas: written approval of the Conservation Authority having jurisdiction shall be obtained and submitted with any building permit application.					✓							✓	
Unique Provisions - Use													
Portable Classrooms: Buildings formerly used as portable classrooms shall not be located on a residential lot for use as an accessory use.				✓									
Residential Backyard Hens: Permission for hens on lots greater than an acre in a residential zone.						✓							
Adult Entertainment Uses: provision for this use where permitted in the zoning by-law.						✓							
Accessory Dwelling Units (Non-Residential Zones): Where they are permitted in a non-residential use, provisions shall apply.							✓						
Accessory Industrial Equipment: Additional provisions applicable to accessory industrial equipment.							✓						

Provision/Intent	Whitby #1784	Whitby #2585	Whitby #5581-05	Ajax	Barrie	E. Gwillimbury*	Innisfil	Milton	Newmarket	Oakville	St. Catharines	Vaughan -*draft	Welland
Accessory Retail Uses: Where permitted within a non-residential use, the listed provisions shall apply.							✓						
Boathouses Docs and Other Shoreline Structures: Provisions for this use.							✓						
Campgrounds: Lot size, accessory uses, outdoor recreation space provisions for this land use.							✓						
Motor Vehicle Service Stations: Provisions applying to motor vehicle service stations where permitted by the zoning by-law.							✓						
Refreshment Trailers: A maximum of one refreshment trailer shall be permitted in specified zones in accordance with the listed provision with a maximum of ten permitted in the corporate limits of the Town at one time.							✓						
Sleeping Cabins: Shall be permitted as an accessory use in the specified zones in accordance with the listed provisions.							✓						
Storage and Use of Hazardous Liquid or Leachable Chemicals: Shall be contained within an enclosed building and shall be subject to approvals and regulations of the Ministry of Environment.							✓						

Provision/Intent	Whitby #1784	Whitby #2585	Whitby #5581-05	Ajax	Barrie	E. Gwillimbury*	Innisfil	Milton	Newmarket	Oakville	St. Catharines	Vaughan - *draft	Welland
Emergency Shelters: Provisions applicable where an emergency shelter is permitted.										✓			
Home Daycare: Subject to the provisions of a Home Based Business.											✓		
Special Needs Housing: Shall be permitted in all dwelling types.											✓		
Apartment Units in Commercial and Mixed Use Zones: Where permitted in the By-law, apartment uses in these zones shall be in accordance with the listed provisions.													✓
Condominiums: Additional provisions related to condominiums as a land use.													✓
Day Care Centres: When located in a commercial or mixed use building of a certain size, the area of a day care centre shall not be included in calculations of gross floor area or parking requirements.													✓
Snow Storage Areas: Minimum area required for snow storage in industrial, institutional and residential zones.													✓
Barrier-Free Access Ramps and Lifts: Nothing in this By-law prevents the establishment of barrier-free entrances and ramps.						✓							

Provision/Intent	Whitby #1784	Whitby #2585	Whitby #5581-05	Ajax	Barrie	E. Gwillimbury*	Innisfil	Milton	Newmarket	Oakville	St. Catharines	Vaughan - *draft	Welland
Food Vehicles: permitted as in accessory use, except in some residential zones.									✓				
Hazardous Uses: uses that are hazardous to health are not permitted.									✓				
Uses Restricted: requires separation distance for certain industrial/commercial uses.									✓				
Motor Vehicle Dealership Displays: addresses provisions for this use.										✓			
Accessory Office and Accessory Retail: addresses provisions for these uses.												✓	
Place of Worship: addresses dwellings in association with these uses.												✓	
Seasonal Farm Stand and Commercial uses: provides provisions for these uses.												✓	
Portable Asphalt Plants: shall be dismantled at the completion of the construction project.								✓					
Clothing Donation Boxes: provides provisions for this use.								✓					
Dog Daycare: provisions for dog daycares								✓					
Unique Provisions - Other													
Area Requirements to Remain: Areas reserved as open space shall continue to be reserved regardless of changes in ownership.				✓									
Holding Zones: Provisions applicable to holding zones identified in Schedule "A" to the zoning by-law.							✓						

Provision/Intent	Whitby #1784	Whitby #2585	Whitby #5581-05	Ajax	Barrie	E. Gwillimbury*	Innisfil	Milton	Newmarket	Oakville	St. Catharines	Vaughan - *draft	Welland
Hazard Lands (Regulated Area) and Natural Environmental Area: Permitted uses and provisions for Hazard Lands and Natural Environmental Areas.							✓						
Common Walls on Lot Lines: No minimum side/rear yard applies for common walls.											✓		
Height: Where and how height is measured for the purposes of this zoning by-law.											✓		
Partial Destruction to Existing Buildings: A building destroyed by more than 50% that does not comply with the zoning by-law shall not be restored except in conformity with the zoning by-laws.													✓
Regulations for Consolidated Lot Development: Applicable to abutting lots under one identical ownership.													✓
Amenity: provides requirements for amenity areas.												✓	
Established Neighbourhood: provides provisions for existing residential zones.												✓	
Minimum Standards for a Dwelling Unit: A dwelling unit shall contain max one kitchen and one bathroom and other room, among other.					✓								

Provision/Intent	Whitby #1784	Whitby #2585	Whitby #5581-05	Ajax	Barrie	E. Gwillimbury*	Innisfil	Milton	Newmarket	Oakville	St. Catharines	Vaughan - *draft	Welland
Storm Water Management Facilities' : zone which is followed by the symbol (SWM) constitutes an area for the control of the quality and /or quantity of storm water runoff.					✓								
Nightclubs : provides requirements for this use.					✓								
Temporary Turning Circle : sets out requirements for temporary turning circles.							✓						

Note* - The East Gwillimbury Zoning By-law has been appealed and the Vaughan Zoning By-law is in draft form.

3.1.1 Existing Whitby Provisions

The first section of **Table 3**, “Existing Whitby Provisions” compares which of Whitby’s general provisions are also found in other municipalities’ zoning by-laws. This section is colour coded to illustrate which provisions are common, in green, which are unique to Whitby, in pink, and which are somewhere in between, in yellow.

This review demonstrates that certain provisions are standard across many zoning by-laws, i.e. those highlighted green. The prevalence of these provisions indicate their importance and the likely need for them in the new Comprehensive Zoning By-law. These common provisions include those listed below. For more detail on what these provisions say or regulate, refer to **Table 3**.

- Public Uses
- Local Non-Conformity
- Sight Triangles
- Building Repair
- Accessory Uses
- Accessory Buildings/Structures
- Landscape Requirements (e.g. landscape strip or percentage of lot or yard)
- Swimming Pools
- Model Homes
- Accessory Apartments
- Home Based Businesses
- Height Exceptions

There are a number of less common provisions which are seen in Whitby’s zoning by-laws and some of the other municipal zoning by-laws; these are highlighted yellow in **Table 3**.

Of these provisions, road allowance widths and satellite dishes have been identified in **Table 1** as likely not being necessary. The through lot provision may be better addressed in the Definitions section of the new Comprehensive Zoning By-law.

The relative rarity of the provision may not necessarily indicate it is not suitable for the new Comprehensive Zoning By-law. For example, the Oak Ridges Moraine Plan Boundary Provision is likely unique simply because many of the other Municipalities’ reviewed are not located within the Oak Ridges Moraine Plan area.

3.1.2 Example Provisions not found in Whitby Zoning By-laws

The second section of **Table 3** highlights provisions that are seen in multiple other zoning by-laws, but not in Whitby's existing zoning by-laws. These are broken down into two categories: Use-related provisions and Other provisions.

Often use-related provisions are placed in the general provisions section of a zoning by-law as the use relates to multiple zones, and it saves repeating the different provisions in each zone. Some of the use-specific provisions that other municipalities' zoning by-laws address include:

- Uses Prohibited in All Zones
- Uses Permitted in All Zones
- Temporary Uses
- Outdoor Display and Sales Areas
- Number of Dwelling Units on a Lot
- Drive-Through Facilities and Stacking Spaces
- Bed and Breakfast Establishments
- Community Gardens
- Accessory Farm Employee Accommodation
- Kennels
- Medical Marihuana Production Facilities
- Waste Storage, Disposal, Processing and Transfer Areas
- Garden Suites
- Restaurant Patios
- Trail Corridors and Playgrounds
- Shipping Containers
- Home Industries
- Wayside Pits and Quarries
- Outdoor Storage
- Truck, Bus and Coach Bodies for human habitation

In addition to the use-specific provisions, some provisions in other municipal zoning by-laws include:

- Availability of Municipal Services
- Fences and Privacy screens

- Multiple Uses and Zones on one Lot (both apply)
- Conformity with an Established Building Line
- Minimum Distance Separation
- Heating, Ventilation and Air Conditioning Equipment (HVAC)
- Wellhead Protection Areas
- Setbacks to railways, pipelines, highways etc.

Many of these provisions will be considered in the new Comprehensive Zoning By-laws. Their appropriateness will be further considered in the next phase of this Study.

3.1.3 Unique Provisions

Not unexpected, some of the zoning by-laws had some unique provisions. Some of the use-related unique provisions include:

- Portable Classrooms
- Adult Entertainment Uses
- Accessory Dwelling Units (Non-Residential Zones)
- Accessory Industrial Equipment
- Accessory Retail Uses
- Boathouses Docs/Shoreline Structures
- Campgrounds
- Motor Vehicle Service Stations
- Refreshment Trailers
- Sleeping Cabins
- Storage and Use of Hazardous Liquid or Leachable Chemicals
- Garden Centres
- Emergency Shelters
- Home Daycare
- Special Needs Housing
- Apartment Units in Commercial and Mixed Use Zones
- Condominiums
- Snow Storage Areas

In addition to the above, a number of unique non-use provisions were reviewed in other zoning by-laws, these include the following:

- Area Requirements to Remain (Areas reserved as open space shall continue to be reserved regardless of changes in ownership);
- Common Walls on Lot Lines (No minimum side/rear yard applies for common walls);
- Height (Where and how height is measured for the purposes of this zoning by-law);
- Utilities (Notwithstanding the other provisions of the zoning by-law, utilities or servicing infrastructure are permitted in any yard in any zone in accordance with the listed provisions);
- Regulations for Consolidated Lot Development (Applicable to abutting lots under one identical ownership);
- Established Neighbourhoods (provides provisions for existing residential zones)

3.1.4 Other Unique General Provisions in Example Zoning By-laws

The following includes some additional unique provisions or unique organization of general provisions sections of the other municipal zoning by-laws reviewed.

3.1.4.1 Town of Ajax

The Ajax Zoning By-law contains generally standard provisions, with a few unique ones, as identified in **Table 3**, including provisions related to portable classrooms. The Ajax Zoning By-law incorporates tables to express the provisions, including organizing the yard encroachment, landscape buffer and daylighting triangle provisions each in their own table.

3.1.4.2 City of Barrie

The Barrie Zoning By-law is somewhat unique in that it contains topics not often included within the general provision sections, including those related to interpretation and parking. To certain extent, it has an interesting organization in that it groups use-related provisions in one section. Depending on the ultimate contents of Whitby's new Comprehensive Zoning By-law, this may be a useful organization tactic.

3.1.4.3 Town of East Gwillimbury

The Town of East Gwillimbury also includes some generally standard provisions and some unique provisions, the most unique of which is including permission for hens, but no roosters on residential lots greater than an acre. From an organizational standpoint, the East Gwillimbury Zoning By-law does a good job of breaking out certain key topics into subsections, such as ORM provisions and special setbacks, such as those to railways, highways, watercourses or the Minimum Distance Requirements. The zoning by-law also has a subsection on temporary uses which includes construction uses, model homes and garden suites.

3.1.4.4 Town of Innisfil

The Town of Innisfil has a very detailed general provision section, with some common and some unique provisions as noted in **Table 3**. In order to assist with interpretation, the section has illustrations imbedded within it. It appears to organize the provisions in alphabetical order as opposed to by any topic grouping.

3.1.4.5 Town of Milton

Like some of the other zoning by-laws reviewed, the Milton Zoning By-law utilises tables to convey some of the information. It also has a detailed section on the regulations for attached and detached garages, in table format. Also unique, it contains quite detailed subsections on shipping containers and daylighting triangles. Like the Town of East Gwillimbury, it also has a subsection outlining requirements for setbacks from certain items, like railways and gas pipelines.

3.1.4.6 Town of Newmarket

The Town of Newmarket's general provision section is generally straightforward and contains many of the same provisions seen in the other zoning by-laws reviewed. Of note, the zoning by-law contains quite detailed landscape buffer provisions.

3.1.4.7 Town of Oakville

The Oakville Zoning By-law contains some unique and traditional provisions. Some of its more unique provisions address garbage containers, short term accommodation and emergency shelters. Like Innisfil, it uses illustrations to display the meaning of a provision. It also uses tables to outline detailed landscaping and encroachment provisions.

3.1.4.8 City of St. Catharines

The general provisions section of the St. Catharines Zoning By-law, is fairly standard with a few unique provisions as noted in **Table 3**.

3.1.4.9 City of Vaughan

The general provisions section of the City of Vaughan Zoning By-law, is fairly standard as noted in **Table 3**. These were separated into a General Provisions section and a Special Use Provisions section which covers most of the standard use related general provisions as well as some more unique ones such as, short-term rentals, seasonal farm stands, micro-manufacturing and community gardens.

3.1.4.10 City of Welland

The City of Welland Zoning By-law has many unique provisions (such as apartments in commercial/mixed use, condominiums, day care centres in commercial/mixed use, snow storage areas etc.). The detail provided on fencing/privacy screen is not commonly addressed in zoning by-laws.

4 Official Plan Policies



A review of the Official Plan, including the Secondary Plans, identified policies which should be considered for the general provisions section of the Comprehensive Zoning By-law.

Through the study process, it may be determined that some of these policies are better to be dealt with in other sections of the zoning by-law, or otherwise through the development process. The policies are simply flagged here for further consideration.

Relevant policies include:

- Policy 3.2.10.1 stating that the municipality will support the establishment of community gardens, rooftop gardens and farmer's markets. A general provision may be appropriate to address where these uses may be permitted or any specific requirements thereto;
- Policy 4.1.3. and 4.1.4 which permit a number of uses in any designation, including "facilities related to the protection and safety of the Municipality, including fire, police, and ambulance services, as well as municipal works depots", community gardens, small-scale urban agriculture uses and "utilities such as water storage facilities, water supply, and sanitary, sewage pumping stations operated by public agencies, as well as oil and, gas pipelines and associated facilities, communications/telecommunications facilities, and electricity generation facilities and their transmission and distribution". The Public Use provision should be updated, as needed, to implement these policies;
- Policies 4.5.3.8.1 and 4.5.3.8.2 addressing requirements for Automobile Service Stations, Gas Bars and Car Washes. A general provision may be considered to ensure that as-of-right permissions for these uses align with these policies;
- Policy 5.3.15.3 requires a vibration study within 75 metres of a railway and Policy 8.1.3.9.2 which requires landscaping, fencing, other noise buffers and safety measures adjacent to railways. A general provision may be considered to implement these policies in the zoning by-law; though other options include addressing it through an overlay, holding provision, or through the application process;
- Policy 6.2.3.15.7 which requires appropriate screening, such as for example in the form of landscaping or fencing, where non-residential uses are proposed adjacent to residential uses;
- Policy 6.2.3.17.1 which requires appropriate screening, such as for example in the form of buildings, landscaping or fencing around outdoor storage;

- Policy 8.1.3.8.5 which permits transitway stations and associated facilities along Highway 407 and 412;
- Policy 8.2.5.2 which permits stormwater management facilities in any land use designation, except Natural Heritage Systems;
- Policy 11.3.3.5, in the Downtown Secondary Plan, provides that no new automotive uses, including public garages, and service stations are permitted (though existing uses are). Consideration will be given as to whether this policy should be reflected in the Comprehensive Zoning By-law. However, the Downtown Secondary Plan is currently under review and revisions to this policy will be considered in the next phases of the Comprehensive Zoning By-law study;
- Policies 11.11.4.1 to 11.11.4.10 and 11.11.6.1, which provide specific direction on permitted uses in the area covered by the Oak Ridges Moraine Conservation Plan and the Oak Ridges Moraine Secondary Plan. Whether implementation of these should be in a unique section of the general provisions section warrants further consideration; and
- Policy 11.11.7.3b) which prohibits certain uses in High Aquifer Vulnerability areas within the Oak Ridges Moraine Secondary Plan Area.

5 Minor Variances



One of the ways to identify provisions that need updating is through a review of past minor variances. If numerous minor variances are being sought and approved for the same matter, it may be an indication of a provision that is either overly strict or antiquated. The Town of Whitby produced a Minor Variance Review in May 2019.

The review analysed minor variance applications for the three existing Whitby zoning by-laws between 2010 and 2018, representing a total of 634 applications and 1,088 variances. Overall, 95% of the applications were approved by the Committee of Adjustment, with 1% being denied. The other 4% were withdrawn by the applicant. Approximately 77% of the minor variance applications were for Zoning By-law 1784, with 21% being for 2585 and 2% for 5581-05. This is not unexpected given the respective geographic coverage of the zoning by-laws.

Categorizing the minor variances into groups, the review indicated that the most common variances were for setbacks, then lots (frontage, coverages, areas, depths). The third most common group related to accessory structures, apartments and home based businesses. These made up 119 variances, or approximately 11% of the variances. Other relevant provisions for which variances were sought include non-conforming use expansions (9 variances), porch/deck related (32 variances) and landscape related (10 variances). Although these may be related to the general provisions, the review summary does not provide that detail.

The review of the minor variance identified the following repeated (more than 3) minor variance for the same standard that warrant further consideration in Phase 2 of this Study:

- Multiple minor variances to increase size of accessory buildings/structures. While different standards apply, approximately 90-100 square metres was what was most commonly sought;
- To permit a greater exterior side yard encroachment for decks and porches from 1.5 metres, to approximately 2-3 metres and greater rear yard encroachment for decks and porches also from 1.5 or 3.2 metres to 3-5 metres;
- Reducing the exterior side yards required for accessory buildings in the Agricultural Zone from 15 metres to around 8 metres;
- Reducing the rear yard setback for accessory structures from 0.6 metres to approximately 0.3 metres for residential zones and from 15 to 4-5 metres in Agricultural areas;

6 Considerations for a New General Provisions Section



From the analysis provided in Section 2 and 3 of this report, there are some consistencies and inconsistencies identified across the general provisions sections of the existing Whitby zoning by-laws, as well as some similarities and differences between the Whitby zoning by-laws and other example zoning by-laws reviewed.

From the analysis in **Table 1**, it is clear that the existing Whitby zoning by-laws quite comprehensively address general provision matters, though as identified in this report, some of these provisions warrant a more detailed review and potential update.

There are a number of provisions which are typical to both the existing Whitby zoning by-laws and other municipal zoning by-laws that will need to be incorporated into the new general provisions section, including, for example, public uses, legal non-conformity etc.

Based on the analysis conducted in **Table 1**, and the review of the commonality of these provisions in **Table 3**, **Table 4** lists existing provisions that are recommended to be brought forward, updated as needed, into the new Comprehensive Zoning By-law. These recommendations will be confirmed in the next phase of the study.

Even amongst the existing Whitby zoning by-laws, the wording differs, and with that, sometimes the level of clarity and interpretation. Thus, the next step of the Study will consider which wording is the clearest for inclusion in the Comprehensive Zoning By-law, or perhaps where the wording provided in other Municipal zoning by-laws may be preferable. This step will also include a review of the West Whitby subsection of Zoning By-law 1784, where more simplified/modern wording has already been prepared on some topics.

Based on the preliminary review undertaken in this report, a number of the existing provisions are proposed not to be carried forward into the new Comprehensive Zoning By-law, as detailed in **Table 4**. This decision will be confirmed in the next phase of the study.

From the review of the example zoning by-laws from other municipalities, there are a number of typical general provisions. These provisions are separated in **Table 3** into those related to uses and other provisions. There is a broad range of provisions that are not currently addressed in the zoning by-laws, which the Town may wish to regulate.

The next phase of this Study will examine which of these commonly occurring provisions, or unique ones, from the other zoning by-laws reviewed may be suitable for inclusion in the Whitby Comprehensive Zoning By-law.

Table 4: Potential Treatment of Existing Provisions in the new Comprehensive Zoning By-law (to be confirmed in Phase 2)

Existing provisions to carry forward into the new Comprehensive Zoning By-law	Existing provisions NOT to carry forward into new Comprehensive Zoning By-law
Public Uses	Greater Restrictions
Excepted Lands and Buildings (Legal Non-conformity)	Continuation of Farming Uses
Lots Having Less Area and/or Depth and/or Frontage	Existing Registered Plans
Frontage on Public Street	Sign Regulations
Reduction of Requirements	Lanes as Yards
Sight Triangles	Greenbelt Zones
Building Repair	Special Exemptions
Accessory Uses	Rooms Below Grade
Ten Per Cent (10%) of Every Lot (Landscaping)	Satellite Dishes
Public Garages	Application of By-law
Swimming Pools	External Design:
Accessory Buildings/Structures	Planned Width of Street Allowance
Accessory Buildings	Through Lots:
Yard Encroachments Permitted	Pits and Quarries
Group Homes	Boarding and Lodging House Separation Distance
Residential Sales Offices	Oak Ridges Moraine Boundary
Model Home	
Recreational Propane Sales	
Accessory Apartment	
Home Based Business	
Building Extensions and Repair	
Height Exceptions	
Special Uses Permitted	
Detached Garage and Car Ports	
Existing Uses	
Special Setbacks (minimum Distance Separation)	
Areas of High Aquifer Vulnerability	
Rapid Infiltration Basins and Columns	
Single Detached Dwelling on a Lot	
Zero Decimal Three (0.3) Metre Reserves	
Standards for Attached Private Garages on Lots Accessed by a Lane	
Standards for Attached Private Garages on Lots Accessed from a Street	

Existing provisions to carry forward into the new Comprehensive Zoning By-law	Existing provisions NOT to carry forward into new Comprehensive Zoning By-law
ORM Environmental Protection Zones /Greenbelt	
Height Exemptions	
Holding (H) Zone Provisions	
Roads	

The following is the preliminary long list of additional provisions, which will be considered and further refined in the next phase of this Study, based on the review of other municipal zoning by-laws:

- Uses Permitted in All Zones
- Uses Prohibited in all Zones
- Temporary Uses
- Outdoor Display and Sales Areas
- Number of Dwelling Units on a Lot
- Drive-Through Facilities and Stacking Spaces
- Bed and Breakfast Establishments
- Community Gardens
- Accessory Farm Employee Accommodation
- Kennels
- Medical Marijuana Production Facilities
- Waste Storage, Disposal, Processing and Transfer Areas
- Garden Suites
- Restaurant Patios
- Trail Corridors and Playgrounds
- Shipping Containers
- Home Industries
- Wayside Pits and Quarries
- Outdoor Storage
- Truck, Bus and Coach Bodies for human habitation
- Location of Gasoline and Propane Pumps and Canopies/Fuel Tanks
- Micro-Industrial Uses
- Short-Term Accommodation
- Garden Centres
- Availability of Municipal Services
- Fences and Privacy screens
- Multiple Uses and Zones on one Lot (both apply)
- Conformity with an Established Building Line
- Front Lot Line and Lot Frontage
- Waterfront lots
- Minimum Distance Separation
- Heating, Ventilation and Air Conditioning Equipment (HVAC)
- Wellhead Protection Areas
- Setbacks to railways, pipelines, highways etc.
- Rooftop mechanical Equipment
- 0.3 Metre Reserves
- Conservation Authority Regulated Areas
- Portable Classrooms
- Adult Entertainment Uses
- Accessory Dwelling Units (Non-Residential Zones)
- Accessory Industrial Equipment
- Accessory Retail Uses
- Boathouses
Docs/Shoreline Structures
- Campgrounds

<ul style="list-style-type: none"> • Motor Vehicle Service Stations • Refreshment Trailers • Sleeping Cabins • Storage and Use of Hazardous Liquid or Leachable Chemicals • Emergency Shelters • Home Daycare/Daycare Centres • Special Needs Housing • Apartment Units in Commercial and Mixed Use Zones • Condominiums 	<ul style="list-style-type: none"> • Snow Storage Areas • Barrier-Free Ramps • Food Vehicles • Hazardous uses • Motor Vehicle Dealership Displays • Accessory Office and Accessory Retail • Seasonal Fam Stand and Commercial uses • Potable Asphalt Plants • Clothing Donation Boxes • Dog Daycare • Area Requirements to Remain (as open space 	<p>shall continue to be reserved regardless of ownership.);</p> <ul style="list-style-type: none"> • Permitted uses and provisions for Hazard Lands and Natural Environmental Areas); • Common Walls on Lot Lines • Utilities • Partial Destruction to Existing Buildings • Regulations for Consolidated Lot Development (Applicable to abutting lots under one identical ownership);
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As part of the update, the new Comprehensive Zoning By-law will need to be brought into conformity with the Official Plan as well as other Provincial plans and legislation. General provisions will likely be prepared in conformity with a number of the Official Plan policies identified in the Section 4 of this report, including introducing new provisions or updating existing provisions to address the following:

- Community gardens, rooftop gardens and farmer's markets;
- Uses permitted in any zone;
- Provisions related to Service Stations, Gas Bars and Car Washes;
- Requirements for development within 75 metres of a railway;
- Screening between residential and non-residential uses;
- Screening around outdoor storage;
- Permissions for public transportation uses; and
- Provisions related to permitted uses in the area covered by the Oak Ridges Moraine Plan and Oak Ridges Moraine Secondary Plan.

The next phase of this Study will also consider whether by-law changes should be considered for provisions where minor variances were common as discussed in Section 5 of this report.

In addition, it is recognized that some of the existing older provisions will need to be updated to align with modern laws and legislation. For example, ensuring that the zoning by-law regulates only uses instead of people, as required under the Planning Act. As such, reference to families will be removed, as well as required separation distances based on users, such as for group homes or lodging houses.

Other provisions will need to be updated to reflect current legislation. For example, the review of accessory apartment provisions will ensure the provisions align with the Provincial direction, including broadening permission for accessory apartments in townhouse dwellings, and increasing the number of accessory apartments permitted in a certain type of dwelling or in certain locations.

7 Conclusion



In Phase 2 of this Study, the information collected and summarised in this report will be further examined and a list of general provisions will be considered and evaluated. Of note, the next steps in Phase 2 will include consideration of:

- where there are multiple examples of wording of the same provision/intent amongst the three zoning by-laws, which is the most appropriate to be brought forward into the Comprehensive Zoning By-law;
- whether any updates or revisions to the provisions being carried forward to the Comprehensive Zoning By-law, per the comments noted in **Table 1**, are needed;
- which of the provisions identified in other municipal zoning by-laws should be introduced into the Comprehensive Zoning By-law; and
- how this section can best be organized to convey the information clearly and make it easy to find.

Appendix A: Excerpts of Example Zoning By-laws



SECTION 4 GENERAL PROVISIONS

4.1 **USES PERMITTED IN ALL ZONES**

The *uses* identified in this subsection are permitted in all zones.

4.1.1 **Accessory Buildings, Structures and Uses**

Accessory buildings, structures and *uses* are permitted in all zones subject to the following provisions:

- i) The principle *use, building* or *structure* must already be established on the same *lot*;
- ii) No detached *accessory building* or *structure* may be used for human habitation or an occupation for gain, unless specifically permitted by this By-law;
- iii) *Accessory buildings* or *structures* shall not be permitted in a *front yard*;
- iv) Unless otherwise specified in this By-law, any *accessory building* or *structure* shall be setback a minimum of 0.6 metres from any rear or interior *side lot line* and a minimum of 5 metres from any *exterior lot line*; and,
- v) The total *lot coverage* of all *accessory buildings* and *structures* on a *lot* shall not exceed 10% of the *lot area* to a maximum *gross floor area* of 60.0 m², nor may any part of any *accessory building* or *structure* be located more than 4.5 metres above the *established grade*. However, in any Downtown Central Area Zone where a detached *private garage* is located in the *rear yard* of a single-use residential *dwelling unit* and is accessed from a rear *lane*, the garage may be permitted having a depth of up to 7.7 metres and a *gross floor area* of up to 45 square metres.
- vi) In any DCA/MU, DAC/RM1 or DCA/RM2 zone, where a non-apartment residential *dwelling* consists of double front units which are located either on a *through lot* or on a *lot* abutting a *public street* on one side and an Open Space Zone on the opposite side, no *accessory building* shall be permitted on the *lot*.

4.1.2 Public Uses

The provisions of this By-law shall not apply to prevent the *use* of any land, *building* or *structure* by any *public authority*, except in an Environmental Protection (EP) Zone provided that:

- i) Such *use, building* or *structure* complies with all applicable regulations, parking and loading requirements of the zone in which it is located;
- ii) Such *use* shall not adversely affect the character or amenity of the area in which it is located; and,
- iii) No *outdoor storage* is permitted unless such *outdoor storage* is specifically permitted in the zone in which the *use* is located.

4.1.3 Streets and Installations (As amended by By-law 136-2008)

Nothing in this By-law shall prevent land from being used, subject to the applicable municipal studies or an approved development application as a *public street* or prevent the installation and *use* of a:

- water main;
- sanitary sewer main;
- storm sewer main;
- gas main;
- steam line, subject to an agreement with the Town;
- hot/cold water line, subject to an agreement with the Town;
- pipeline;
- overhead or underground hydro, telephone or other utility supply and/or communication lines; or
- Canada Post centralized delivery facility.

4.1.4 Satellite Dishes (As amended by By-law 38-2008)

Satellite dishes with a maximum diameter of 1.0 metre each are permitted in any zone provided they are mounted on an exterior wall, roof or chimney of the *principal building* of the *lot* on which it is located.

Notwithstanding the above, a maximum of one satellite dish shall be permitted for each residential *dwelling unit* or individual non-residential *use* within any Village Core Mixed *Use Zone*, and no satellite dish shall be mounted on an exterior wall facing onto a front and/or *exterior side yard*.

4.1.5 Temporary Construction *Uses*

In all zones, save and except the Environmental Protection or Open Space Zones a tool shed, construction trailer, or other *building* or *structure* incidental to construction is permitted on a *lot* where construction is taking place provided that the *building* or *structure* is located no closer than 15 metres to any *existing dwelling* and provided that a valid *building* permit is in effect for the noted construction.

4.2

ENCROACHMENTS INTO REQUIRED YARDS

The following ornamental *structures* to a *principal building* are permitted to encroach into any required *yard* in accordance with the following provisions:

Permitted Ornamental <i>Structure</i>	Maximum Permitted Distance of Encroachment Into a Required <i>Yard</i>	
Bay/Box/Bow Window with or without a foundation	1.0 metre	
Canopies/Porticos	One half of the setback of the <i>building</i> from the <i>street line</i> .	
Sills, cornices, parapets, pilasters, or other similar ornamental <i>structures</i>	50% of the width of any required <i>yard</i> to a maximum of 0.6 metres	
Uncovered steps leading to or from a <i>principal building</i> or <i>platform</i>	a) Front and <i>Exterior side yard</i>	0.0 m from <i>lot line</i>
	b) <i>Rear yard</i>	1.8 m from <i>rear lot line</i>
Chimneys or Vents	50% of the width of the <i>side yard</i>	
	1.0 metre into the <i>rear yard</i> and the aggregate of all <i>rear yard</i> projections shall be limited in extent to 25% of the face of the rear wall.	
Drop awnings, clothes poles, flag poles, garden trellises, retaining walls, fences or other similar <i>accessory structures</i>	Permitted in any required <i>yard</i> .	
Eaves	To the <i>lot line</i>	

The encroachments permitted in the table above do not apply to *accessory buildings*.

4.3

PLATFORMS

Notwithstanding the setback requirements of any Residential Zone, *platforms* are permitted in any Residential Zone in accordance with the following provisions:

	Height Above Finished Ground Level		
	Finished ground level to 0.6 m	More than 0.6 and less than 1.2 m	More than 1.2 m
Maximum Area	50% of <i>yard</i> in which it is located	50% of <i>yard</i> in which it is located	30.0 m ²
Minimum Setback from Exterior side lot line	May extend 2.5 metres out from main <i>building</i> wall, but no closer to <i>exterior side lot line</i> than 3.5 metres except in the R1-C, R1-D, R1-E, R1-F, R2-A, R2-B and R3 Zones in which requirements of Section 6.2.4 apply.	May extend 2.5 metres out from main <i>building</i> wall, but no closer to <i>exterior side lot line</i> than 1.5 metres except in the R1-C, R1-D, R1-E, R1-F, R2-A, R2-B and R3 Zones in which requirements of Section 6.2.4 apply.	Must meet setback requirements for individual zones
Minimum Setback from Interior side lot line	Must meet setback requirements for individual zones	Must meet setback requirements for individual zones	Must meet setback requirements for individual zones The setback shall be zero for Townhouses
Minimum Setback from Rear lot line	1.8 m	1.8 m	4.0 m
Minimum Setback from Front lot line	May extend 2.5 metres out from main <i>building</i> wall, but no closer to <i>front lot line</i> than 3.5 metres except in the R1-C, R1-D, R1-E, R1-F, R2-A, R2-B and R3 Zones in which requirements of Section 6.2.4 apply	May extend 2.5 metres out from main <i>building</i> wall, but no closer to <i>front lot line</i> than 3.5 metres except in the R1-C, R1-D, R1-E, R1-F, R2-A, R2-B and R3 Zones in which requirements of Section 6.2.4 apply.	Must meet setback requirements for individual zones

	Height Above Finished Ground Level		
	Finished ground level to 0.6 m	More than 0.6 and less than 1.2 m	More than 1.2 m
Maximum Yard Coverage	In no case shall the area of the <i>platform</i> exceed 50% of the area of the <i>yard</i> in which it is located.	In no case shall the area of the <i>platform</i> exceed 50% of the area of the <i>yard</i> in which it is located.	In no case shall the area of the <i>platform</i> exceed 50% of the area of the <i>yard</i> in which it is located.

4.4 ACCESSORY APARTMENTS

One *accessory apartment* shall be permitted in any single detached or *semi-detached dwelling* in a Residential or Mixed Use Zone provided that it has a minimum *gross floor area* of 25.0 m² and the total *gross floor area* of the *accessory apartment* is not more than the *ground floor area* of the *dwelling* in which it is located.

4.5 OUTDOOR DISPLAY AND SALES AREAS

Where the outdoor display and sale of goods and materials is permitted as an *accessory use*, the following provisions shall be complied with:

- i) The area used for outdoor display and sale is not be more than 35% of the total *lot area*;
- ii) The area used for outdoor display and sale is in addition to and separated from, the areas required for parking; and
- iii) The area used for outdoor display and sale provides side and *rear yards* in accordance with the provisions for the Zone in which the *lot* is situated.

4.6 AREA REQUIREMENTS TO REMAIN

When any part of a *lot* is required by this By-law to be reserved as open space, it shall continue to be so reserved regardless of changes in the ownership of such land and shall not be deemed to form a part of an adjacent *lot* for the purpose of computing the area thereof available for building purposes. *Lot area* calculations shall only be based on the area of lands zoned for the intended *use*.

4.7 DAYLIGHTING TRIANGLE

Daylighting triangles shall be required on *corner lots* in all zones in accordance with the following requirements:

**4.7.1 Establishing the *Daylighting Triangle*
(Amended by By-law 86-2005)**

The area within a *daylighting triangle* shall be determined by measuring from the point of intersection of *street lines* on a *corner lot*, the distance required by this By-law along each such *street line* and joining such points with a straight line. *Daylighting triangles* shall be established in accordance with the following requirements:

Zone		Minimum Distance Measured Along Each <i>Streetline</i> From Corner
Residential Zones		4.5 m
Downtown Central Area Zones	Local Road / Local Road Intersection	4.5 m
	Local Road / Collector Road Intersection	4.5 m along the local road <i>street line</i> and 7.5 m along the collector road <i>street line</i>
	Collector Road / Collector Road Intersection	7.5 m
	Any intersection with an Arterial Road	As per Region of Durham requirements
All Other Zones		7.5 m

4.7.2 Maximum *Height* in *Daylighting Triangle*

Notwithstanding any other provisions of this By-law, the maximum permitted *height* of any *structure*, storage, display, fence or vegetation within a *daylighting triangle* shall be 0.75 metre as measured from the top of the adjacent curb.

4.8 Exceptions to *Height* Requirements (Amended by By-law 86-2005, 38-2008)

The *height* requirements of this By-law shall not apply to spires, belfries, chimneys, elevator enclosures, or mechanical penthouses occupying in the aggregate less than ten percent of the area of the roof of the *building* on which they are located, for *buildings* located outside of any Downtown Central Area Zone. Nor shall they apply to monuments, flag poles, silos or other agricultural *buildings* or *structures*.

Within any Downtown Central Area zone or Village Core Mixed Use zone, the *height* restrictions of this By-law shall not apply to chimneys, elevator enclosures, mechanical penthouses, roof-top access enclosures (such as access ways to

roof-top gardens), or to the architectural elements including spires, belfries, cupolas, and parapets. Commensurately, in terms of achieving the minimum *height* requirements of this By-law for *buildings* in any Downtown Central Area Zone, such elements as those noted above shall not be considered in calculating a *building's minimum height*.

4.9 FRONTAGE ON A PUBLIC ROAD

No *person* shall erect any *building* or *structure* in any zone unless the *lot* upon which the *building* or *structure* is to be erected has frontage on a *public road*.

4.10 SEPARATION DISTANCES FOR GROUP HOMES

No *group home* shall be located any closer than 300 metres to any other *group home*.

4.11 HOME BASED BUSINESS

Where a *home based business* is permitted the following provisions shall apply:

- i) Not more than one employee, in addition to the residents of the *dwelling unit*, is engaged in the business and working in the *dwelling*;
- ii) The *use* is restricted to the *dwelling unit* and shall not be conducted in whole or in part in any *accessory building*;
- iii) Not more than the lesser of 25% of the *gross floor area* or 45 square metres
- iv) of floor area of the *dwelling unit* is used for the purpose of the *home based business*;
- v) There is no *outdoor storage* or display of material or equipment;
- vi) Only the sale of goods assembled, crafted or produced on the *lot* is permitted; and,
- vii) The *use* is clearly secondary to the residential *use* and does not change the residential character of the *dwelling* or the *lot*.
- vi) **(Incorporated by By-Law 86-2005)** Notwithstanding any other provision of this Section, a *home based business* forming the non-residential component of a *live-work unit* shall not be subject to the floor area provisions of sub-section 4.11 iii) above, provided that some part of the *live-work unit*, having a minimum *gross floor area* of 40.0 m², is retained exclusively for residential *use* as a *dwelling unit*.

4.12 LANDSCAPED BUFFERS

4.12.1 Landscaped Buffers for Commercial, Mixed Use and Employment Zones (Incorporated by By-Law 86-2005 and amended by By-law 38-2008)

Landscaped buffers shall be required in the Commercial, Mixed Use and Employment Zones in accordance with the following:

- i) Notwithstanding any other provision of this By-law, where a Village Core Mixed Use Two Zone, a Village Core Mixed Use Four Zone, a Commercial Zone, or an Employment Zone abuts a Residential or Open Space Zone, a *landscaped buffer* of a minimum width of 3 metres, in the case of a Village Core Mixed Use Two Zone or Village Core Mixed Use Four Zone, or a minimum width of 4.5 metres, in the case of a Commercial or Employment Zone, shall be required within the Village Core Mixed Use Two Zone, the Village Core Mixed Use Four Zone, the Commercial Zone, or the Employment Zone and located adjacent to the Residential or Open Space Zone.
- ii) Where a *landscaped buffer* is required on a *lot*, such portion of the *lot* shall not be used for any other purpose.
- iii) Notwithstanding Sections 4.12 (i) and 4.12 (ii) of this By-law, *landscape buffers* shall be required for lands within the Commercial, Mixed Use, or Employment Zones as follows:

Location	Minimum Landscape Buffer
Adjacent to Highway No. 401	15.0 m
Adjacent to Type A and Type B Arterial Roads and Harwood Avenue in the Uptown Mixed Use Zone and Prestige Employment Zone	9.0 m
Adjacent to Type C Arterial Roads and Collector Roads in the Uptown Mixed Use Zone and Prestige Employment Zone	6.0 m
Adjacent to Local Roads in the Prestige employment zone and Commercial Zone	3.0 m

4.12.2

Landscaped Buffers for Downtown Central Area Zones
(Incorporated by By-law 86-2005)

Within all Downtown Central Area Zones, *landscaped buffers* shall be required in accordance with the following:

Location		Minimum <i>Landscape Buffer</i>
i)	Between a public street and any parking area	
	a) Adjacent to a local road	4.0 m
	b) Adjacent to a collector or arterial road	6.0 m
ii)	Where a non-residential or mixed <i>use</i> development site abuts a single- <i>use</i> residential development site, a <i>landscaped buffer</i> shall be required along the dividing property line within the <i>lot</i> or development block that is the site of the non-residential or mixed <i>use</i> development	4.5 m
iii)	Where a non-apartment single- <i>use</i> residential development site abuts a single- <i>use</i> residential apartment development site, a <i>landscaped buffer</i> shall be required along the dividing property line within the <i>lot</i> or development block that is the site of the apartment development	3.0 m
iv)	Where a non-apartment single- <i>use</i> residential development site featuring freehold <i>lots</i> on <i>public streets</i> abuts a single- <i>use</i> residential development associated with private roads provided through a plan of condominium, a <i>landscaped buffer</i> shall be required along the dividing property line within the condominium-based development	3.0 m
v)	Open Space Zones:	
	a) Where a non-residential or mixed <i>use</i> development site abuts an Open Space Zone used for purposes other than a public walkway or a <i>Gateway Site</i> that is zoned Open Space, a <i>landscaped buffer</i> shall be required within the development site and located abutting the Open Space Zone	4.5 m

Location		Minimum Landscape Buffer
b)	Where a parking or service area associated with a non-residential or mixed use development site is adjacent to an Open Space Zone that is used for a public walkway or is a <i>Gateway Site</i> that is zoned Open Space, a <i>landscaped buffer</i> shall be required within the development site and located abutting the Open Space Zone	3.0 m
vi)	<i>Gateway Sites</i> that are not zoned Open Space:	
a)	Where a parking or service area associated with a non-residential or mixed use development site abuts a <i>Gateway Site</i> that is not zoned Open Space, a <i>landscaped buffer</i> shall be required within the development site and located abutting the defined <i>Gateway Site</i> block	3.0 m
vii)	Where a <i>landscaped buffer</i> is required on a <i>lot</i> , such portion of the <i>lot</i> shall not be used for any other purpose, save and except for an approved <i>driveway</i> access location.	

4.13 UNDERSIZED LOTS

In any zone where a *lot* having lesser width or area than is required by this By-law is held under distinct and separate ownership from any adjoining *lot* on the date of passing of this By-law, a *building* or any addition to an *existing building* may be erected and used on such *lot* provided that such *building* conforms with all other provisions of this By-law.

4.14 MODEL HOMES

Model homes shall only be permitted on lands that have received Draft Plan Approval for residential purposes provided that:

- i) not more than the lesser of 10 *dwellings*, or 10% of the total number of residential units contained in the approved Draft Plan are constructed as *model homes*;
- ii) the *model home* is built within a *lot* defined by the draft approved Plan of Subdivision;

- iii) the *model home* complies with all other requirements of this Zoning By-law; and,
- iv) a *Model Home Agreement* is entered into with the Town of Ajax.

4.15 NON-CONFORMING USES

This By-law shall not prevent the *use* of any land, *building* or *structure* for any purpose prohibited by the By-law if such land, *building* or *structure* was lawfully used for such purposes on the day of the passing of this By-law, so long as it continues to be used for that purpose.

This By-law shall not prevent the erection or *use* for a purpose prohibited by the by-law of any *building* or *structure*, for which a *building* permit has been issued in accordance with the *Building Code Act*, prior to the day of the passing of this By-law, so long as the *building* or *structure* when erected is used and continues to be used for the purpose for which it was erected and provided that the *building* permit has not been revoked.

4.16 NON-COMPLYING BUILDINGS OR STRUCTURES

Where a *building* has been erected prior to the day of the passing of this By-law on a *lot* having less than the minimum frontage and/or depth and/or area, or having less than minimum set back and/or *side yard* and/or *rear yard* and/or minimum usable open space required by this By-law, the said *building* may be enlarged, repaired or renovated provided that:

- i) the enlargement, repair or renovation does not further reduce a required *yard* or open space having less than the minimum required by this By-law; and,
- ii) all other provisions of this By-law are complied with.

4.17 DEEMED TO COMPLY

Where a *building* permit has been issued in accordance with the Ontario *Building Code* and which remains valid, for the construction of a *building* or *structure* that would otherwise not comply with this By-law, such *building* or *structure* shall be deemed to comply with this By-law.

4.18 NUMBER OF DWELLING UNITS ON A LOT

Unless otherwise specified by this By-law, no more than one *dwelling unit* is permitted on any *lot*.

4.19 PORTABLE CLASSROOMS

Buildings formerly used as portable classrooms shall not be located on a *lot* for use as an *accessory building* to the primary residential use.

4.20 REDUCTION OF REQUIREMENTS

No *lot* shall be reduced in area, either by the conveyance or alienation of any portion of such *lot*, so that any *building* or *structure* on the *lot* no longer meets the requirements of the zone in which the *lot* is located. No *person* shall be deemed to have contravened any portion of this By-law by reason of the fact that any part or parts of any *lot* have been conveyed to a *public authority*.

4.21 SPECIAL SETBACKS

Notwithstanding any other provisions in this By-law, the following special setbacks shall apply.

4.21.1 Minimum Setback For Access

A minimum setback of 1 metre is required between any wall of a *building* or *structure* containing a door and any *lot line*.

4.21.2 Railways

Minimum setbacks from the edge of a railway right-of-way shall be required in accordance with the following:

- i) In any Employment Zone, where a *lot line* abuts a railway spur line right-of-way, no *interior side yard* or *rear yard* setback shall be required along the portion of the *lot line* that abuts the railway right-of-way.
- ii) In all zones adjacent to the CN or CP rail lines, save and except the General Employment (GE) Zone and the Heavy Employment (HE) Zone, all permitted *buildings and structures* within such zones shall be *setback* a minimum of 30 metres from the edge of the railway right-of-way.

4.21.3 Setback From Lake Ontario

No *building* or *structure* shall be erected, improved or enlarged such that the distance from any wall of a *building* to the edge of the water of Lake Ontario, taken at an elevation of seventy-six metres (76.0 m) above mean sea level, is less than one hundred and twenty metres (120.0 m). *Buildings and structures* within the Country Residential (CR) Zone and residential *uses* that are located east of Pickering Beach Road on the north side of Lakeview Boulevard are exempt from this requirement.

4.21.4 Minimum Distance Separation Setbacks

No residential, institutional, commercial, industrial or recreational *use*, located on a separate *lot* and otherwise permitted by this By-law shall be erected or enlarged unless it complies with the Minimum Distance Separation (MDS I) formula as attached to this By-law.

In addition, notwithstanding any other *yard* or *setback* provision in this By-law, no livestock facility shall be erected or enlarged unless it complies with the Minimum Distance Separation Formula (MDS II) as attached to this By-law.

4.21.5 TransCanada Pipeline

A minimum ten metre (10.0 m) setback shall be provided for all permanent *structures* and excavations from the limits of any TransCanada Pipeline right-of-way.

4.22 TEMPORARY SALES STRUCTURE

A *temporary sales structure* shall be permitted in any Mixed Use, Residential, Commercial, Employment, or Agricultural Zone provided that:

- i) the *temporary sales structure* is located in accordance with the zone provisions for the zone in which it is located; and,
- ii) an agreement is entered into with the Town of Ajax.

4.23 TRUCK, BUS AND COACH BODIES

Except as otherwise specifically permitted in this By-law, no truck, trailer, bus, coach, streetcar body or *structure* of any kind, other than a *dwelling unit* erected and used in accordance with this and all other by-laws of the Town, shall be used for human habitation, whether or not the same is mounted on wheels or other form of mounting or foundation.

4.0 GENERAL PROVISIONS AND GENERAL STANDARDS**4.1 GENERAL PROVISIONS****4.1.1 General**

No lands shall be used and no *buildings* or *structures* shall be *erected, altered, enlarged, or used* within any *zone* delineated on the attached Zoning Maps which form part of this By-law, except in conformity with the provisions of this By-law which prevail for that *zone* subject to the provisions of Section 4.4.

4.1.2 Zones

For the purpose of this By-law, all land within the boundaries of the City of Barrie is hereby divided and established into "*Zones*" which are represented on the attached "Zoning Maps".

4.1.3 Zoning Maps

The aforesaid *zones* together with the *zone* boundaries are shown on the attached maps. Such maps shall form part of this By-law.

4.1.4 Interpretation

Where uncertainty exists with respect to the boundaries of the various *zones* as shown on the Zoning Maps, the following provisions shall apply:

4.1.4.1 Street, Lane, Right-of-Way or Watercourse

Unless otherwise shown, a *street, lane* or railway right-of-way, electrical transmission line right-of-way or *watercourse* shall be included within the *zone* of the adjoining property on either side and where such *street, lane, right-of-way* or *watercourse* serves as a boundary between 2 or more different *zones*, the centre line of such *street, lane, right-of-way* or water course and extending in the general direction of the long dimension shall be deemed to be the boundary between *zones*.

4.1.4.2 Lot Lines

Where any *zone* boundary is not shown to be a *street, lane, right-of-way* or *watercourse*, and where the boundary approximately follows *lot lines*, such *lot lines* shall be deemed to be the *zone* boundary subject to Section 4.1.4.3.

4.1.4.3 Zone Boundary - R1 Zone

In the R1 *zone* where any *lot* is in excess of 0.4ha in size, and the *zone* boundary is not shown to be a *street, lane, right-of-way* or *watercourse*, then the *zone* boundary shall be considered to be 60m from and parallel to the *front lot line*.

4.1.4.4 Closed Street, Lane or Right-of-Way

In the event a *street, lane* or right-of-way and the limits of any portion thereof is closed, the property formerly within such *street, lane* or right-of-way shall be included within the *zone* adjoining the property, and where such *street, lane* or right-of-way was a *zone* boundary the new *zone* boundary shall be the former centre line of the closed *street, lane* or right-of-way.

4.1.4.5 Lots without Frontage on a Street

When a parcel of land only has access via a private *lane* or right-of-way, the *lot line* and *yard* abutting the *lane* or right-of way shall be deemed to be the *front lot line* and *front yard* for the purposes of this By-law.

4.1.4.6 Phased Condominium Registration

Where a comprehensive Condominium Plan of Subdivision has received Draft Plan approval and where registration of the Plan is intended to occur in phases or stages, the draft approved plan of condominium shall be deemed to be one lot for purposes of applying zoning provisions. Zoning regulations shall apply only to the external limits of the Plan, not to interior boundaries resulting from the registration of each phase.

4.1.4.7 Exemptions

Clothes poles, flag poles, ornamental light poles, required retaining walls or other similar accessory structures are permitted in any yard and are not subject to height and setback requirements of the zone in which they are located. Accessibility ramps are permitted in any yard and are not subject to height and setback requirements of the zone in which they are located.

4.1.5 **Uses Permitted**

The *uses* permitted in a *zone* are found on tables which form part of this By-law. The *uses* permitted are noted by the symbol 'X' in the column applicable to that *zone* and corresponding with the row for a specific permitted use. A number following the 'X' symbol, *zone* heading or identified permitted use, indicates that one or more conditions apply to the use, or in some cases to the entire zone.

4.2 **PERMITTED USES****4.2.1** Notwithstanding anything contained in this By-law any *public utility* or service owned and operated by the City of Barrie is not subject to the provisions and standards of the Zoning By-law, save and except as provided in Section 11 of this By-law.

Any lands may be used and any *buildings* or *structures* may be *erected, altered, enlarged* or used in any *zone* for the following purposes, provided that such *uses, buildings* or *structures* shall be in compliance with the provisions and standards of the zone in which they are located.

4.2.1.1 Services and Utilities

- (a) Emergency services of any *Public Authority*
- (b) *Public utility* or
- (c) *Private utility*, save and except for:
 - (i) incinerators, sanitary landfill projects, waste collection and recycling facilities, or any function involving open storage of materials,
 - (ii) free standing transmission towers in the Central Area Commercial C1 Zone, Transition Centre Commercial C2 Zone, all Residential Zones or Environmental Protection EP Zone. (By-law 2012-198)

4.2.1.2 Recreational Uses

Permitted *uses* include any *urban or village square*, park or playground, bowling green, and tennis court, including *buildings* and facilities accessory and incidental thereto.

4.2.1.3 Construction Facilities

Construction, maintenance and demolition shall be permitted activities along with any sheds, trailers, *outdoor storage*, scaffolds or other *structures* incidental to construction on the same *lot* on a temporary basis and only for so long as the same is necessary for work in progress which has neither been finished nor abandoned. Construction facilities shall comply with the *accessory building* standards of the *zone* in which it is located.

4.2.1.4 Temporary Sales Trailer

Real estate sales and a sales trailer shall be considered as permitted *accessory uses* on the same *lot* as the proposed development for as long as the construction is in progress and the project has been neither finished, nor abandoned. The trailer shall comply with the *accessory use* standards of the *zone* in which it is located.

4.2.1.5 Aggregate Uses

Notwithstanding any other provision of this By-law, The Ministry of Transportation may for public road purposes, use any *lot* not zoned for residential *use* or as being environmental protection for the extraction and processing of aggregate material for *use* in a specified project. Any *wayside pit or quarry* shall conform to the provisions of the Aggregate Resources Act, R.S.O. 1990, c.A.8 and the regulations made there under.

4.2.1.6 Bed and Breakfast Establishment

Bed and Breakfast establishments shall be permitted in all Commercial and Residential *Zones*. In Residential *Zones*, *Bed and Breakfast establishments* shall be located in a detached *dwelling unit*; be owner occupied; and are restricted to a maximum of 3 guest rooms or 5 guest rooms within the City Centre Planning Area. In Commercial *Zones*, *Bed and Breakfast establishments* shall be located in a detached *dwelling unit*.

4.2.1.7 Temporary Sales Event

The conducting of a temporary sales event including an outside garage sale or rummage sale, whether or not for profit, shall be permitted in all *zones* a maximum of 4 days within a calendar year.

4.2.1.8 Occasional or Special Event

The conducting of an *occasional or special event*, whether or not for profit, shall be permitted in all *zones* save and except that such event may not occur for more than 4 days within a calendar year, in any *Residential Zone*.

4.2.1.9 Accessory Structures and Uses

Structures and uses that are subordinate and incidental to the principal of the *building* are permitted in all *zones*.

No other *building or structure* except a *parking structure underground* which is *accessory* to a *use* in any *zone* shall:

- a) occupy any part of a required front, side, or *rear yard* except as provided elsewhere in this By-law;
- b) be *erected* prior to the erection of the *main building* on the same *lot*, except for construction facilities and temporary sales trailers;

4.2.1.10 Outdoor Patios

The following standards shall apply to *outdoor patios*:

- a) an *outdoor patio* shall not exceed 50% of the area of the gross floor area of the *use* to which it is ancillary.
- b) parking shall be provided in accordance with the *zone* standards as applicable to the *zone* and *use* to which it is ancillary.
- c) (deleted by By-law 2017-079)
- d) (deleted by By-law 2017-079)
- e) rooftop *outdoor patios* or raised patios shall be protected by a guard rail in conformity with the Ontario Building Code, and in the case of rooftop patios, shall be placed and designed so as to prevent seating or standing within 1m of the edge of the building.

4.2.1.11 Sale of Fruit and Vegetables

The sale of fruit and vegetables and other home-made/farm produce on a seasonal basis is permitted on commercially zoned property provided the required zoning standards for any existing use, including but not limited to parking, is not impacted. (By-law 2014-007) (By-law 2015-129)

4.2.1.12 Model Home Uses

More than one single detached or semi-detached or townhouse dwelling may be constructed on a site prior to registration of the plan of subdivision subject to the following restrictions:

- a) the *dwelling units* shall be *used* for the purpose of model homes only and shall not be occupied prior to the date of the registration of the subdivision agreement;
- b) the number of *lots used* for model homes shall not exceed 10% of the number of draft approved *lots* for the plan of subdivision, however in no circumstance shall the number of *lots used* for model homes exceed 15 *lots*; and
- c) compliance with all other provisions of this By-law, as though the *dwellings* were constructed on *lots* within a registered plan of subdivision. (By-law 2017-041)

4.2.1.13 Other Uses

- a) Archaeological Uses
- b) Community Mailboxes
- c) Community Gardens
- d) Natural Heritage, Fish, Wildlife and Forest Management, Restoration and Remediation Uses, and Flood and Erosion Control Projects, stewardship conservation restoration, remediation and relocation of stream corridor areas.
- e) Storm water management facilities and related components such as, but not limited to, back-slope, inlets or outlets, retaining walls and Low Impact Development (LID) measures. (By-law 2017-041)

4.3 PROHIBITED USES

4.3.1 Notwithstanding anything contained in this By-law, the following *uses* shall not be permitted within any *zone* in the City of Barrie:

- a) the manufacturing, refining, rendering or distilling of acid, ammonia, chlorine, coal, creosote, explosives, fireworks, petroleum and tar;
- b) the manufacture of fertilizers, oil or glue from human, fish or animal matter;
- c) the boiling of blood, tripe or soap;
- d) a track for the racing or testing of automobiles, motorcycles, go-carts or snowmobiles, except on Kempenfelt Bay;

- e) privately owned *trailer camps* (other than those existing prior to the passing of this By-law);
- f) storage of polychlorinated biphenyl (PCB's) except PCB's stored at property described as Part Lot 16, Concession 14, Plan 20, formerly Township of Innisfil, now City of Barrie known municipally as 55 Patterson Road, in association with the operation of the subject utility company;
- g) bulk open storage of coal or coke or other material which may be noxious by emission of dust or odours;
- h) smelters;
- i) any *use* which, from its nature or the materials used therein, is declared to be a noxious or offensive trade, business or manufacture, subject to the provisions of Section 7.0 of this By-law;
- j) the parking and storage of commercial *vehicles* in excess of 4500kg gross *vehicle* weight, or those designed specifically for commercial, industrial or agricultural purposes, is prohibited within the Residential, Environmental Protection, Institutional and Open Space Zones; (By-law 2018-113)
- k) Body Rub Parlour.

4.3.2 Use of Trailer

- a) No trailer or *recreational vehicle* shall be used for living, sleeping or housekeeping purposes within the City of Barrie except where such trailer is located in a licensed trailer camp.
- b) The use of a tent, trailer, recreational vehicle transport trailer, railroad car, caboose, container, truck, bus coach or streetcar-body, either as is or modified, for purposes of a retail establishment, restaurant, refreshment pavilion, office, sales or service of any nature except as provided for in Section 4.2.1.3, 4.2.1.4, 4.2.1.7, 4.2.1.8 and 4.2.1.11 shall not be permitted in any zone. This shall not apply to trailers which are entirely removed from the property on a daily basis. (By-law 2014-007) (By-law 2015-129)

4.4 NON-CONFORMING USES

4.4.1 Non-Conforming Uses

- 4.4.1.1 No provision of this By-law shall apply to prevent the *use* of any land, *building or structure* for any purpose prohibited by the By-law if such land, *building or structure* was lawfully used for such purpose on the day of the passing of the By-law, so long as it continues to be used for that purpose.
- 4.4.1.2 No provision of this By-law shall apply to prevent the erection or *use* for a purpose prohibited by the By-law of any *building or structure* the plans for which have, prior to the day of the passing of the By-law, been approved by the Chief Building Official so long as the *building or structure* when *erected* is used and continues to be used for the purpose for which it was *erected* and provided the erection of such *building*

or structure is commenced within two years after the day of the passing of the By-law and such *building or structure* is completed within a reasonable time after the erection thereof is commenced.

4.4.2 Change In Use

4.4.2.1 Notwithstanding any other provision of this By-law, the *use* on the day of the passing of this By-law of any land, *building or structure* for a purpose shall not be changed or *altered* or extended unless the land, *building or structure* can conform with the standards for land, *building or structures* imposed by this By-law for the *use* for a purpose permitted by this By-law for land, *buildings or structures* in the *zone* in which it is located.

4.4.2.2 Section 4.4.2.1 shall not apply to an alteration or extension of a legal *non-conforming structure* where such alteration or extension complies with the standards for land, *building or structures* imposed by this By-law, and the *use* of such alteration or extension is the same *use* as the balance of the legally *non-conforming structure* or for a *use* or a purpose permitted by this By-law for the *zone* in which it is located.

4.4.2.3 Section 4.4.2.1 shall not apply to a change of a residential *use* which results in a reduction in the number of *dwelling units* on the subject lands.

4.4.3 Restoration of Non-Conforming Use

Any *non-conforming building or structure* other than a *single detached dwelling, converted dwelling* or a *multiple dwelling* which has been destroyed to the extent of more than fifty percent of the *structure* (exclusive of walls below grade) at the date of destruction and as determined by the Chief Building Official, shall not be restored except in conformity with the permitted *uses* and standards of this By-law for the *zone* in which it is located.

4.4.4 Restoration to Safe Condition

Subject to the provisions of Section 4.4.1, 4.4.2 and 4.4.3 nothing in this By-law shall prevent the strengthening or restoration to a safe condition of all or part of any *building or structure* provided that such alteration or repair will not increase the height, size or volume or change the *use* of such *building or structure*.

4.5 OTHER PROVISIONS

4.5.1 Municipal Services

No permanent *building or structure* shall be *erected* for human occupancy after the date of passing of this By-law unless such *buildings or structures* are served by municipal water supply and municipal sanitary sewage disposal facilities, or unless otherwise specified by this By-law.

4.5.2 Residential Use

No *buildings or structures* shall be used for residential purposes until such *buildings or structures* have met the minimum standards as prescribed in the Building Code Act, 1992, S.O. 1992, c. 23.

4.5.3 Minimum Standards for a Dwelling Unit

- a) Every *dwelling unit* shall contain a maximum of 1 *kitchen*;
- b) At least 1 bathroom and at least 1 other room;
- c) A private entrance from outside or from a common hallway or stairway inside;
- d) No more than 4 *tenants*; and,
- e) No *tenant*-occupied room is permitted to be equipped with an external locking mechanism that prevents access to said room by the other house occupants when the room is unoccupied.

4.5.4 Conservation Authority Regulated Areas

Appendix "A" – Conservation Authority Regulated Areas attached constitutes an information schedule showing lands subject to the Lake Simcoe Region Conservation Authority and the Nottawasaga Valley Conservation Authority regulations. Notwithstanding any other provision of this By-law, written approval of the Conservation Authority having jurisdiction shall be obtained and submitted with any building permit application and prior to the addition or removal of fill, whether originating on the site or elsewhere for any lands located within the regulated areas. All *uses, buildings or structures* shall meet all other provisions of this By-law.

4.5.5 Storm Water Management Facilities

Any area within a *zone* which is followed by the symbol (SWM) constitutes an area for the control of the quality and /or quantity of storm water runoff, and may constitute a dry or wet pond which may include recreational *uses* as deemed appropriate by the City.

4.5.6 Acquisition of Land By Authority Possessing Power of Expropriation

Notwithstanding any other provisions of this By-law, where a *lot* is created which has less than the minimum standard for frontage and/or yard and/or area, as a result of the acquisition of land by an authority possessing the power of expropriation, such *lot* shall be deemed to conform to such minimum standard.

4.5.7 Lot Area, Lot Frontage and Open Space

No person, except a *public authority* by either engaging in the implementation of a public work, or by requiring a dedication of land for public purposes, shall reduce in area or frontage any *lot* already built upon, either by conveyance or alteration of any portion thereof or otherwise, so that the *lot coverage* of the *building* exceeds the maximum permitted by this By-law, or so that the area or frontage of the *lot* will be less than the minimum permitted by this By-law for the *zone* in which such *lot* is located.

4.5.8 Minimum Setback from Rail Lines

Appendix “B” Active Rail Lines attached constitutes an information schedule identifying the active rail lines and rail spurs within the City of Barrie that are subject to regulation by Transport Canada.

Notwithstanding any other provision of this By-law, the principal use shall not be permitted:

- within 30m of the Newmarket and Meaford subdivisions (identified on Appendix “B”).
- within 15m of the Beeton Subdivision and all BCRY rail spurs (identified on Appendix “B”).

4.5.9 Prohibited Development in a Floodway

Notwithstanding anything in this By-law, new habitable dwellings shall be prohibited in the *floodway*.

4.5.10 Minimum Setback from TransCanada Pipeline

No permanent building or structure shall be located within 7 metres of the pipeline right of way. Accessory structures shall have a minimum setback of at least 3 metres from the limit of the right of way unless otherwise provided for in this By-law. (By-law 2014-007)

4.6 PARKING STANDARDS

4.6.1 The following standards shall apply to all *zones* throughout the City unless otherwise specified in subsequent sections of this By-law.

Uses	Parking Standards
<i>Abattoir</i>	1 space per 100m ² of <i>gross floor area</i>
<i>Accessory Retail</i>	1 space per 30m ² of <i>gross floor area</i> min. 2 spaces.
<i>Adult Entertainment Parlour</i>	1 space per 2 persons
<i>Animal Shelter</i>	1 space per 30m ² of <i>gross floor area</i> office space
<i>Arcade or Game Establishment</i>	1 space per 4 persons
<i>Arena</i>	1 space per 4 persons
<i>Art Gallery</i>	1 space per 30m ² of <i>gross floor area</i> min. 2 spaces
<i>Assembly Hall</i>	1 space per 4 persons
<i>Assisted Living Facility</i>	1 space per 2 suites/units
<i>Automotive Leasing Establishment</i>	1 space per 50m ² of <i>gross floor area</i> min. 2 spaces
<i>Automotive Repair Establishment</i>	1 space per 50m ² of <i>gross floor area</i> min. 2 spaces
<i>Automotive Sales Establishment</i>	1 space per 50m ² of <i>gross floor area</i> min. 2 spaces
<i>Automotive Service Station</i>	1 space per 50m ² of <i>gross floor area</i> min. 2 spaces
<i>Bakery</i>	1 space per 70m ² of <i>gross floor area</i>
<i>Bank</i>	1 space per 30m ² of <i>gross floor area</i>
<i>Bed and Breakfast Establishment</i>	1 space per guest bedroom, plus 1 space for the owners

Table 4.6	
Uses	Parking Standards
<i>Boarding Lodging Rooming House, Small</i>	1 space for every 2 <i>tenants</i> accommodated. Tandem parking will be permitted.
<i>Boarding Lodging Rooming House, Large</i>	1 space for every 2 <i>tenants</i> accommodated. Tandem parking will not be permitted.
<i>Building Supply Centre</i>	1 space per 70m ² of <i>gross floor area</i>
<i>Bus Terminal</i>	1 space per 50m ² of <i>gross floor area</i> min. 2 spaces
<i>Bus Transfer Station</i>	1 space per 50m ² of <i>gross floor area</i> min. 2 spaces
<i>Car Wash</i>	1 space per 70m ² of <i>gross floor area</i>
<i>Child Care</i>	1 space per classroom and 1 per office
<i>City Hall</i>	1 space per 30m ² of <i>gross floor area</i>
<i>College</i>	1 space per classroom and office plus 1 space per 10 students
<i>Commercial School</i>	1 space per student (person)
<i>Commercial uses otherwise not defined</i>	1 space per 50m ² of <i>gross floor area</i> min. 2 spaces
<i>Community Centre</i>	1 space per 4 persons
<i>Concrete Product Manufacturing</i>	1 space per 70m ² of <i>gross floor area</i>
<i>Concrete Ready Mix Plant</i>	1 space per 70m ² of <i>gross floor area</i>
<i>Conference Centre</i>	1 space per 4 persons
<i>Converted Dwelling</i>	1 space per <i>dwelling unit</i>
<i>Court House</i>	1 space per 50m ² of <i>gross floor area</i>
<i>Custom Workshop</i>	1 space per 50m ² of <i>gross floor area</i>
<i>Data Processing Centre</i> a) Office b) Non-office uses	a) 1 space per 30m ² of <i>gross floor area</i> b) 1 space per 1000m ² of <i>gross floor area</i> (2014-007, amended by 2014-071)
<i>Dormitory</i>	1 space per 2 students to be accommodated. Tandem parking will not be permitted.
<i>Elementary School</i>	1 space per classroom and office
<i>Emergency Services Depot</i>	1 space per 100m ² of <i>gross floor area</i>
<i>Entertainment Establishment</i>	1 space per 4 persons
<i>Excavation/Processing of minerals</i>	1 space per 10, 000m ² of <i>lot area</i>
<i>Fitness or Health Club</i>	1 space per 2 persons
<i>Foundry</i>	1 space per 70m ² of <i>gross floor area</i>
<i>Funeral Establishment</i>	1 space per 30m ² of <i>gross floor area</i> min. 2 spaces
<i>Gaol</i>	1 space 100m ² of <i>gross floor area</i>
<i>Group Home</i>	1 space per <i>dwelling unit</i>
<i>Golf Course</i>	1 space per tee
<i>Golf Driving Range (outdoor)</i>	1 space per tee
<i>Heavy Equipment Dealer</i>	1 space per 50m ² of <i>gross floor area</i>
<i>Hospital</i>	1 space per 50m ² of <i>gross floor area</i>
<i>Hotel/Motel</i>	1 space per room or <i>suite</i>
<i>Industrial School</i>	1 space per student (person)
<i>Industrial uses otherwise not defined</i>	1 space per 70m ² of <i>gross floor area</i> min. 2 spaces
<i>Institutional uses otherwise not defined</i>	1 space per 50m ² of <i>gross floor area</i>
<i>Kennel</i>	1 space per 30m ² of <i>gross floor area</i> of office space
<i>Laundry or Dry Cleaning</i>	1 space per 50m ² of <i>gross floor area</i>

Table 4.6	
Uses	Parking Standards
<i>Library</i>	1 space per 30m ² of <i>gross floor area</i> min. 2 spaces
<i>Local Convenience Retail</i>	1 space per 30m ² of <i>gross floor area</i>
<i>Manufacturing and Processing in wholly enclosed building</i>	1 space per 70m ² of <i>gross floor area</i>
<i>Manufacturing of Noxious Products</i>	1 space per 70m ² of <i>gross floor area</i>
<i>Marina</i>	1 space per slip
<i>Material Recovery Facility</i>	1 space per 70m ² of <i>gross floor area</i>
<i>Miniature Golf (outdoor)</i>	1 space per hole
<i>Museum</i>	1 space per 30m ² of <i>gross floor area</i> min. 2 spaces
<i>Nightclub</i>	1 space per 4 persons (By-law 2012-086)
<i>Nursery or Garden Supply Centre</i>	1 space per 70m ² of <i>gross floor area</i>
<i>Office</i>	1 space per 30m ² of <i>gross floor area</i> min. 2 spaces
<i>Office, Medical</i>	1 space per 15m ² of <i>gross floor area</i>
<i>Outdoor Storage</i>	1 space per 1000m ² of <i>lot area</i>
<i>Outdoor Storage of Sand, Gravel, Stone, Soil or Salt</i>	1 space per 1000m ² of <i>lot area</i>
<i>Personal Service Store</i>	1 space per 30m ² of <i>gross floor area</i>
<i>Photography Studio</i>	1 space per 30m ² of <i>gross floor area</i>
<i>Place of Worship</i>	1 space per 5 persons in the sanctuary
<i>Police Station</i>	1 space per 30m ² of <i>gross floor area</i> min. 2 spaces
<i>Printing and Publishing</i>	1 space per 70m ² of <i>gross floor area</i>
<i>Private Academy, Philanthropic or Religious School</i>	1 space per classroom and office
<i>Private Club</i>	1 space per 4 persons
<i>Rail Transfer Facility</i>	1 space per 1000m ² of <i>gross floor area</i>
<i>Recreational Establishment</i>	1 space per 2 persons
<i>Recyclable Materials Transfer Station or Recycling Facility</i>	1 space per 70m ² of <i>gross floor area</i>
<i>Religious Institution</i>	1 space per 7 persons
<i>Rental store</i>	1 space per 50m ² of <i>gross floor area</i>
<i>Research/Development Facility</i>	1 space per 70m ² of <i>gross floor area</i>
<i>Residential building containing not more than 3 dwelling units</i>	1 space per <i>dwelling unit</i> , plus 1 additional space for every 2 tenants accommodated. Tandem parking will be permitted.
<i>Residential building containing more than 3 dwelling units</i>	1.5 spaces per <i>dwelling unit</i>
<i>Residential dwelling(s) in the Urban Growth Centre (see Appendix "C").</i>	1 space per dwelling unit(s) (By-law 2014-110)
<i>Restaurant</i>	1 space per 4 persons
<i>Retail Store</i>	1 space per 30m ² of <i>gross floor area</i> min. 2 spaces
<i>Secondary School</i>	1 space per classroom and per office plus 1 space per 10 students
<i>Self Storage</i>	1 space per 500m ² of <i>gross floor area</i>
<i>Service Store</i>	1 space per 50m ² of <i>gross floor area</i>
<i>Shopping Centre</i>	1 space per 18.6m ² of <i>gross leasable floor area</i>
<i>Social Services Facility</i>	1 space per 30m ² of <i>gross floor area</i> min. 2 spaces.

Table 4.6	
Uses	Parking Standards
	No parking is required in the Urban Growth Centre. (By-law 2016-057)
<i>Theatre</i>	1 space for every 4 persons
<i>Training and Rehabilitation Centre</i>	1 space per 50m ² of <i>gross floor area</i>
<i>Truck Terminal</i>	1 space per 1,000m ² of <i>gross floor area</i>
<i>University</i>	1 space per classroom and per office plus 1 space per 10 students
<i>Veterinary Clinic</i>	1 space per 50m ² of <i>gross floor area</i> min. 2 spaces
<i>Warehousing excluding Self Storage</i>	1 space per 1,000m ² of <i>gross floor area</i>
<i>Wholesale Establishment</i>	1 space per 50m ² of <i>gross floor area</i>

4.6.2 Parking

4.6.2.1 *Parking spaces* shall be provided and maintained in accordance with the following requirements and shall be provided on the same *lot* as the *building* or *use* for which they are required.

4.6.2.2 Parking Based on Occupancy

Where parking provisions in Table 4.6 relate to spaces per person or student, this shall be calculated based on the maximum number of persons which can be accommodated within the *use* according to the Ontario Building Code, as amended, unless otherwise specified.

4.6.2.3 Parking - Multiple Uses

That notwithstanding the parking requirements set out in Table 4.6, where there are 2 or more permitted uses in any *building* or on any *lot*, the following parking requirements shall apply:

- a) Multiple Uses in Industrial Zones: A minimum of 1 parking space per 40m² of gross floor area shall be required except where data warehousing is in combination with another use, in which case the data warehousing components shall be at the rate identified in Table 4.6 and the additional multiple uses shall be at a rate of 1 parking space per 40m².
- b) Multiple Uses in Commercial Zones: A minimum of 1 parking space per 24m² of gross floor area shall be required except where residential uses are in combination with another use, in which case the residential use components shall be at the rate identified in Table 4.6 and the additional multiple uses shall be at a rate of 1 parking space per 24m².
- c) For development that existed prior to the passing of this By-law (December 7, 2015), when change of use occurs, the less restrictive of the standard parking rate or the blended parking rate for multiple uses in accordance with a) and b) can be applied. (By-law 2015-129)

4.6.2.4 Parking - Additions to Building or Uses

Enlargements to any *buildings* or *uses* shall be provided with additional *parking spaces* in accordance with the provisions of Section 4.6 of this By-law. Such spaces being additional to any existing *parking spaces* but need not exceed the minimum number required by Section 4.6 for both the original *buildings* or *uses* plus the enlargements.

4.6.2.5 Size of Parking Spaces

Each *parking space*, with the exception of barrier free *parking spaces* and *parallel parking spaces*, shall have a minimum width of 2.7m and a minimum length of 5.5m and shall include such additional area (aisle) as required which shall have a minimum width in accordance with the following standards:

Angle of Parking	Minimum Aisle Width
30 degrees	2.8m ⁽¹⁾
45 degrees	3.4m ⁽¹⁾
60 degrees	5.2m ⁽¹⁾
90 degrees	6.4m

⁽¹⁾ One way traffic only shall apply to these minimum aisle widths.

Except where tandem parking is permitted, each parking space shall have unfettered access to the municipal road, to a *driveway* or to an aisle.

4.6.2.5.1 Notwithstanding any provisions to the contrary, structural columns in a parking structure may encroach into a parking space provided that the minimum width of the parking space is not less than 2.5m. Encroachment into the standard parking space width of 2.7m is not permitted where a wall, fence or similar full length obstruction is abutting any parking space. (By-law 2016-003)

4.6.2.6 Surface Treatment

All required non-residential *parking spaces*, *driveways*, aisles and *loading spaces* shall be constructed and maintained with a stable surface such as portland cement, asphaltic binder or paving stones and curbed with a continuous poured concrete curb, except as provided for in Sections 7.3.3.1, 9.3.2.1 and 10.3.1.1.

Where more than 3 *parking spaces* are required on a *lot*, all *parking spaces* shall be clearly marked to identify the size and location of the spaces.

4.6.2.7 Lighting

Where lighting facilities are provided in conjunction with any parking and *loading spaces*, such lighting shall be so arranged as to deflect light onto the *parking spaces* and away from adjoining properties or *streets*.

4.6.3 **Additional Parking Standards**

4.6.3.1 Parking is not required for commercial uses and places of worship in the Central Area Commercial (C1) Zone.

4.6.3.2 Off-street parking spaces in a Shopping Centre Commercial (C3) Zone shall be provided at the minimum of 1 space for each 18.6m² of gross leasable area of the shopping centre buildings irrespective of the use that is permitted.

4.6.3.3 The Urban Growth Centre shall refer to the geographic area as delineated in Appendix "C".

4.6.4 Barrier Free Parking

- a) When more than 4 *parking spaces* are required on a *lot*, barrier free *parking spaces* for the exclusive *use* of persons with disabilities shall be identified with a Provincially regulated vertical sign displaying the international symbol for disabled access. Barrier free *parking spaces* shall be included in the calculation of required parking and shall be provided in accordance with the following standards:

Required Parking	Barrier Free Parking	
	Type A – min. width of 3.4m, access aisle width of 1.5m	Type B – min. width of 3.1m, access aisle width of 1.5m
5 to 25 spaces	1 space	-
26 to 50 spaces	1 space	1 space
51 to 75 spaces	1 space	2 spaces
76 to 100 spaces	2 spaces	2 spaces
Over 100 spaces	1 space plus 3% of required parking spaces	

- b) Where there is potential conflict in the calculation of Barrier Free spaces, the Accessibility for Ontarians with Disabilities Act (ADDA) applies.
- c) Where an odd number of barrier free parking spaces are required, the odd-numbered space may be a Type B parking space.
- d) Where the required 1.5m access aisle is provided between two Barrier Free Parking spaces, the aisle width can be shared. (By-law 2017-079)

4.6.5 Enclosed Parking Areas/Parking Structures

4.6.5.1 Every above ground *structure* containing a *parking area* shall conform to the provisions for the *zone* in which such *structure* is located.

4.6.5.2 The minimum setback from the street line to the nearest part of a *parking structure underground* shall be 1.8m, except where the minimum yard setback for the applicable zone is less than 1.8m, in which case the minimum setback shall be the same as the minimum required yard setback. (By-law 2017-041)

4.6.6 Parallel Parking Spaces

Each parallel parking space shall be a minimum width of 2.7 metres and a minimum length of 6.7 metres, except for the first and/or last space in a row which may have a minimum length of 5.5 metres provided it is located a minimum of 1.5 metres from any intersecting road, lane or obstruction. A one way aisle width shall

be a minimum of 3.7 metres and a 2 way aisle width shall be a minimum of 6.4 metres. (By-law 2017-079)

4.7 LOADING SPACES

4.7.1 General Provisions

For any industrial or commercial use, permanent *loading spaces* shall be provided and maintained on the same *lot* in accordance with the following provisions:

Gross Floor Area	Number of Spaces
0m ² – 999m ²	0 spaces
1,000m ² – 2,999m ²	1 spaces
3,000m ² – 7,499m ²	2 spaces
7,500m ² – 13,999m ²	3 spaces
14,000m ² – 19,999m ²	4 spaces
20,000m ² +	1 space each per additional 10,000m ²

4.7.1.1 Location of Loading Spaces

No *loading space* shall be located in the required minimum *front yard* of any *lot*. *Loading spaces* shall be located adjacent to the *structure* for which they serve and shall be screened from view of any public *street* or highway.

4.7.1.2 Size of Loading Spaces

Any *loading space* shall have a minimum width of 3m, a minimum length of 9m with a minimum vertical clearance of 4m.

4.8 LANDSCAPED OPEN SPACE

4.8.1 General Provisions

4.8.1.1 Any portion of a *front yard* which is not used for any other permitted purpose shall be devoted to *landscaped open space*.

4.8.1.2 Any *landscaped open space*, required to be provided in this By-law shall be maintained in a healthy growing condition or shall be replaced.

4.8.1.3 The roof of an underground parking *structure* not occupied by parking or other permitted *structures* shall be devoted to landscaped open space or general amenity area. (By-law 2017-041)

4.8.1.4 Full curbing shall be provided between all soft landscape areas and adjacent to asphalt *driveways* and parking *lots*, except that this shall not apply to single detached residential *uses*.

4.8.2 Landscaped Buffer Areas**4.8.2.1 Adjacent to Residential Zones**

Where any *lot* in a non-residential *zone* abuts a *lot* in a Residential *Zone*, a continuous *landscaped buffer area* of a minimum width of 3m shall be provided along the abutting *lot* line of the *lot*, and a continuous tight board fence with a minimum height of 2m is to be constructed along the *lot line*, with the exception of the Education Institutional *Zone* (I-E).

4.8.2.2 Industrial Zones Adjacent to Commercial, Institutional, Open Space and Environmental Protection Zones

Where any *lot* in an Industrial *Zone* abuts a *lot* in a Commercial, Institutional, *Open Space* or Environmental Protection *Zone*, a continuous *landscaped buffer area* of a minimum width of 3m shall be provided along the abutting *lot line* of the *lot*.

4.8.2.3 Adjacent to Highway 400

Where any *lot* abuts Highway 400 a continuous *landscaped buffer area* of a minimum width of 9m shall be provided along the *lot line*.

4.9 FENCING**4.9.1 General Provisions**

4.9.1.1 No *retaining wall* or fence shall be permitted within 0.3m of any *lot line* abutting a *street*. No hedge shall be permitted on any *lot* within 1m of any *lot line* abutting a *street*.

4.10 SITE TRIANGLES**4.10.1 General Provisions**

4.10.1.1 All *corner lots* on properties where a *front yard* is required shall provide a sight triangle consisting of an unobstructed triangular area on the sides of the *street*. Such triangle shall be measured from the point of intersection of the *lot lines*, or where a sight triangle has been incorporated within the road allowances, the projection of the *lot lines* abutting the flankage of each *street*. The dimensions of the sight triangle shall be a minimum of:

- a) 5m by 5m in case of a *lot* with any corner side abutting an arterial or collector road;
- b) 3m by 3m in the case of a *lot* with the corner sides abutting 2 local roads.

4.11 OUTDOOR STORAGE STANDARDS**4.11.1 General Provisions**

The following standards relate to *outdoor storage* provisions for any *lot* in an Industrial or Commercial *Zone*.

4.11.1.1 Setbacks

Any *outdoor storage use* or *outdoor storage* associated with any other permitted use shall maintain the same setbacks as required for the *zone* in which it is permitted. No *outdoor storage use* or *outdoor storage* is permitted in the *front yard* or the minimum exterior *side yard* of any *lot*.

4.11.1.2 Height

Any *outdoor storage use* or *outdoor storage* associated with any other permitted use, shall be restricted to a maximum height of 4m except for *outdoor storage* of machinery or equipment.

4.11.1.3 Fencing

Any permitted *outdoor storage* or *outdoor storage use* which adjoins a *street* or a *lot* in any *zone* other than the *zone* in which the *outdoor storage* is located shall be screened from view from the *street* or *lot* through the erection and maintenance of a stone or masonry wall or chain link fence and appropriate landscaping screen and no such enclosure shall be less than two (2) metres in height. The fence shall maintain the same setback as required for the *outdoor storage*. Where the height of the outside storage exceeds the height of the fence, coniferous planting shall be provided between the fence and the *lot line* along the *street*. (By-law 2015-068)

4.11.1.4 Surface Treatment

Outdoor storage areas shall be constructed with a stable surface of crushed stone, slag, gravel, crushed brick or tile, cinders, asphalt, concrete or portland cement binder, which have been treated so as to prevent the raising of dust or loose particles. All vehicular access connecting these areas with a *street* shall be paved with an asphalt or concrete surface from the travelled portion of the *street* to the *lot line*. In all cases provision shall be made for adequate drainage facilities.

4.11.1.5 Parking

Any area used for permitted *outdoor storage* or *outdoor storage use* shall be separate from and in addition to areas required by Section 4.6 of this By-law for the provision of *parking spaces*.

4.11.1.6 Lighting

Where lighting facilities are provided in conjunction with any permitted *outdoor storage* or *outdoor storage use*, such lighting shall be so arranged as to deflect light onto the *outdoor storage* area and away from any adjoining properties or *streets*.

4.11.1.7 Maximum Permitted Outdoor Storage

Outdoor Storage or Accessory to a permitted use, shall not exceed fifty percent (50%) of the total *gross floor area* of the main building in both the Light Industrial (L1) and Highway Industrial (HI) zones. (By-law 2015-068)

4.11.1.8 Outdoor Storage Adjacent to Highway 400

Outdoor Storage shall only be permitted in interior side yards and the *Outdoor Storage* must be fully screened from Highway 400 by the main building. (By-law 2015-068)

4.12 DRIVE-THROUGH FACILITIES**4.12.1 General Provisions**

No person shall *use* any land, *building* or *structures* for any *use* containing a *drive-through facility*:

- a) within any Residential *Zone*;
- b) within any Commercial or Industrial *Zone* that abuts a Residential *Zone*, except where a minimum distance of 15m separates all points of the *drive-through facility* including *stacking lanes* and speaker boxes from any Residential *Zone*, and provided that all other applicable development standards are satisfied.

4.13 NIGHTCLUBS**4.13.1 General Provisions**

- a) Maximum capacity: 600 persons, including outdoor patio areas, where capacity is the lesser of licensed capacity or occupancy load as calculated under the Building Code or Fire Code requirements.
- b) Minimum setback from any Residential zone including residential exception zones: 200m.
- c) Minimum distance setback from any other nightclub: 200m, measured from the property boundary.
- d) Where existing adjoining nightclubs or restaurants are connected by internal passageways used by patrons or staff, the capacity of all the connected uses must be totaled for the purposes of calculating the maximum capacity referred to in subsection 4.13.1(a) and subsection 6.2.7 of this by-law. (By-law 2012-086)

Part 4.0 - General Provisions

4.1 Accessory Apartments

Where permitted in a **single detached, semi-detached or townhouse dwelling**, a maximum of one **accessory apartment** is permitted per **dwelling unit** provided that:

- a) Notwithstanding any provision to the contrary, no more than one entrance is permitted into the **front yard**, including below grade walkouts.
- b) An **accessory apartment** is not permitted on a **lot** where there is a **garden suite** or **coach house** also situated; and,
- c) Notwithstanding the above, an **accessory apartment** is not permitted in the Environmental Protection (EP), Oak Ridges Moraine Core (ORMC), Oak Ridges Moraine Core Linkage (ORMCL), or the Oak Ridges Moraine Countryside (ORMCS) **Zones**.

4.2 Accessory Uses, Buildings and Structures

4.2.1 Accessory Uses

Unless otherwise specified, **accessory uses** are permitted in all **zones**.

4.2.2 Accessory Buildings and Structures

Unless otherwise specified, **accessory buildings and structures** are permitted in all **zones**. All **accessory buildings and structures** are subject to the following provisions:

- a) No **accessory building or structure** can be erected on a **lot** prior to the erection of the **main building** on the **lot**.
- b) No **accessory building or structure** can be used for human habitation or as a **home business**, unless expressly permitted by this By-law.
- c) **Coach houses** are regulated by Section 4.2.3, and not this Section.
- d) No **accessory building or structure** or part thereof can be located:
 - i) Within an easement;
 - ii) Any closer to the **front or exterior side lot line** than the **main building**, except on any **lot** in a Rural (RU), Oak Ridges Moraine Core (ORMC), Oak Ridges Moraine Core Linkage (ORMCL) or Oak Ridges Moraine Countryside (ORMCS) **Zone** that is 0.4 hectares or greater in size;
 - iii) Within any **daylighting or sight triangle**;
 - iv) Within the **minimum front and exterior side yards**; or

- v) Within 1.0 metre from any **building or structure** on the **lot** or as permitted by the Ontario Building Code.
- e) **Accessory buildings and structures** must be located no closer than 1.0 metre from the **rear lot line** and **interior side lot line**.
- f) The maximum **height** of **accessory buildings or structures** in all **zones** except the Rural (RU), Oak Ridges Moraine Core (ORMC), Oak Ridges Moraine Core Linkage (ORMCL) or Oak Ridges Moraine Countryside (ORMCS) **Zones** is 4.5 metres.
- g) The maximum **height** of **accessory buildings or structures** in a Rural (RU), Oak Ridges Moraine Core (ORMC), Oak Ridges Moraine Core Linkage (ORMCL) or Oak Ridges Moraine Countryside (ORMCS) **Zones** is 11.0 metres.
- h) The maximum **lot coverage** of all **accessory building and structures** (including a detached **private garage**) on a **lot** is 10 percent and is included as part of the total **lot coverage** permitted in the **zone**. Notwithstanding the above, the total maximum **ground floor area** of all detached **private garages** on a **lot** shall not exceed 120 square metres.
- i) A **structure** is not considered an **accessory structure** if attached to the **main building** in any way. For the purposes of this Section, where a breezeway connects a **private garage** to the **main building** on the **lot**, forming part of the **main building**, the following criteria must be met:
 - a. The breezeway is structurally connected to both **buildings**;
 - b. The breezeway is a roofed **structure** with more than 60% of the total perimeter of the breezeway enclosed by walls, doors or windows;
 - c. The breezeway is at least 1.8 metres in width to a maximum of 2.5 metres in width, and no more than 9 metres in length.
- j) No more than three detached **accessory buildings or structures** are permitted on a **lot** in any Residential **Zone**, unless otherwise permitted by this By-law.
- k) A boathouse, dock or wharf may be located in a **yard** adjoining a body of water provided that the approval of any other governmental authority having jurisdiction has been obtained and provided that the boathouse, dock or wharf is located no closer than 3.0 metres to the **interior or exterior side lot line** and will not encroach into the area underwater that would be in front of an abutting **lot** when the **lot lines** are extended into the waterbody.

4.2.3 Coach Houses

Where permitted, **coach houses** are subject to the following provisions:

- a) The living area of a **coach house** is located entirely on the second storey above a detached **private garage** on a **townhouse dwelling lot** with rear **lane** access.
- b) **Coach houses** must be located no closer than 1.0 metre from the **rear lot line** and **interior side lot line**.
- c) The maximum **height** of **coach houses** in all **zones** is 7 metres.
- d) The **lot** must be serviced by municipal water and wastewater.

4.3 Accessory Farm Employee Accommodation

An **accessory farm employee accommodation** may be permitted subject to a zoning by-law amendment, when the size and nature of the operation requires additional employment. Where permitted by this By-law, **accessory farm employee accommodation** shall be subject to the following provisions:

- a) Minimum **lot area** - 20 hectares;
- b) Access to the **accessory farm employee accommodation** shall be provided by way of the same **driveway** and entrance-way as the **dwelling unit** in the **main building**.
- c) The **accessory farm employee accommodation** shall be located within 100 metres of the **dwelling unit** in the **main building**; and,
- d) The **accessory farm employee accommodation** is located on a **lot** that is the site of a commercial farm.

4.4 Adult Entertainment Uses

Where permitted by this By-law, **adult entertainment parlours**, **body rub parlours**, or **adult specialty stores** are subject to the following provisions:

- a) The minimum distance between any **adult entertainment parlour** or **body rub parlour** and:
 - i) A provincial highway, major arterial, or collector road right-of-way, as identified in the **Town's** Official Plan is 100 metres; and,
 - ii) Any Institutional or Residential **Zone** boundary, a **dwelling unit** in any **zone** or a school is 200 metres.
- b) The minimum distance between any **adult entertainment parlour** or **body rub parlour** and another **adult entertainment parlour** or **body rub parlour** is 500 metres.
- c) **Adult entertainment parlours** are only permitted on an **interior lot**.

- d) An **adult entertainment parlour** must be located within a free-standing, single **storey building** and must be the sole **use** on a **lot**.
- e) A **body rub parlour** or **adult specialty store** shall be located in a multi-occupancy **building** and shall occupy no more than 15 percent of the total **gross floor area** of the **building** or 150 square metres, whichever is less.
- f) **Accessory uses** are not permitted in conjunction with any **adult entertainment parlour**.
- g) Notwithstanding any other provision in this By-law, in no case shall an **adult entertainment parlour** or a **body rub parlour** be considered an **accessory use**.
- h) **Adult entertainment parlours** are only permitted on **lots** that are connected to full municipal services.

4.5 Barrier-free Access Ramps and Lifts

Nothing in this By-law prevents the establishment of **barrier-free** entrances and ramps in accordance with the requirements of the Ontario Building Code. In addition, nothing prevents the location of **barrier-free** entrances and ramps in a **private garage** that is attached to a **dwelling unit** provided the required number of **parking spaces** can still be provided.

4.6 Daylighting or Sight Triangles

- a) Notwithstanding anything to the contrary, **buildings or structures** are prohibited within a **daylighting or sight triangle**.
- b) Landscaping, street furniture and/or walkway features may be permitted within a **daylighting or sight triangle** up to a maximum **height** of 1.0 metre, measured from the adjacent **street line** elevation, provided it does not obstruct the vision of drivers of motor vehicles or cyclists approaching the intersection.
- c) For the purposes of measuring **front** and **exterior side yard setbacks** for a lot which abuts a **daylighting triangle**, **setbacks** shall be measured from the **front** and **exterior side lot lines**, not the **daylighting triangle**, but at no point may a **building, structure** or legal encroachment extend into the **daylighting triangle**.

4.7 Deck Regulations

Decks are subject to the following provisions:

- a) **Decks** that have a floor **height** of 3.0 metres or less measured from the average grade level adjacent to the **deck** are permitted in the **interior side, exterior side** and **rear yard** provided that the **decks** are:
 - i) No closer than the minimum required **yard** for the **main building** from the **front, interior** and **exterior side lot line**;
 - ii) No closer than 3.0 metres from the **rear lot line**.
- b) **Decks** that have a floor **height** of more than 3.0 metres measured from the average grade level adjacent to the **deck** are only permitted in the **rear yard** provided that the **deck** is no closer than the required minimum **interior side yard** and is no closer than 5.0 metres from the **rear lot line**.
- c) Notwithstanding the above provisions, stairs used to access **decks** shall be setback at least 0.5 metres from any **lot line** or meet the **minimum yard setback**, whichever is lesser.

4.8 Encroachments into Required Yards (Excluding Decks)

Encroachments of the following **structures** or features shall be permitted in accordance with Table 4A below, but at no point may an encroachment extend into the **daylighting triangle** or easement:

Structure or Feature	Yards in which Structure or Feature is Permitted	Required Setback or Permitted Encroachment
Accessibility ramps	All yards	No required setback
Air conditioners and heat pumps	Interior side and rear yard	Must be set back a minimum of 0.3 metres from the interior and rear lot lines
	Exterior side yard	Must be set back a minimum of 1.5 metres from the exterior side lot line
	Front yard	Not permitted in front yard
Cornices, coves, belt courses, eaves, gutters, pilasters, sills, or weather-shielding structures	All yards	May encroach by no more than 0.6 metres into any minimum yard

Structure or Feature	Yards in which Structure or Feature is Permitted	Required Setback or Permitted Encroachment
Balconies	Front and exterior side yards	Must be set back 1.2 metres from the exterior side lot line and the front lot line
	Rear yard	May encroach by no more than 1.8 metres into the minimum rear yard
	Interior side yard	No encroachment permitted into the minimum interior side yard
Bay, box and bow windows that are supported by the main wall or not, with a maximum width of 3.0 metres	Front, rear and exterior side yard	May encroach by no more than 1.0 metres into any minimum yard
	Interior side yard	No encroachment permitted into minimum interior side yard
Chimneys and gas fireplace projections and chases with a maximum width of 1.8 metres	All yards	May encroach by no more than 0.6 metres into any minimum yard and must be set back a minimum of 0.6 metres from the lot line
Fire escapes	All yards	May encroach by no more than 1.5 metres into any minimum yard and must be set back a minimum of 0.6 metres from the interior side lot line
Stairs and landings that access any part of the main building at or above grade, which may include stairs associated with a porch	Rear yard	May encroach by no more than 3 metres into minimum rear yard
	Front and exterior side yards	No part of the stairs or landing may be closer than 0.5 metres from the front and exterior side lot lines
	Interior side yard	Must be set back a minimum of 0.5 metres from the interior side lot line or meet the minimum interior side yard , whichever is lesser.
Stairs that access the main building below grade	Rear yard	May encroach by no more than 1.5 metres into minimum yard
	Front yard	Not permitted in front yard

Structure or Feature	Yards in which Structure or Feature is Permitted	Required Setback or Permitted Encroachment
	Exterior and interior side yards	No encroachment permitted in to minimum exterior and interior side yards
Porches, Canopies (above doorways and not supported by the ground) and porticos	Front, interior and exterior side yards	No part may be closer than 1.2 metres from the front lot line or exterior side lot line and no closer than the required interior side yard for the main building
	Rear yard	May encroach by no more than 3.0 metres into the required rear yard
Eaves and gutters associated with a porch	All yards	May encroach an additional 0.6 metres beyond what is permitted by this section into any minimum yard
Patio	All yards	Must be set back a minimum of 0.5 metres from all lot lines or meet the minimum yard setbacks , whichever is lesser.

4.9 Established Building Line

Notwithstanding any other provision in this By-law, where a vacant **lot** exists or is created between two developed **lots** or where an addition to a legally existing **building** is proposed, and where the **buildings** on the abutting **lots** on either side are located closer to the **front lot line** than is required by this By-law, the minimum **front yard** shall be the average of the **front yard** of the two abutting **lots**.

4.10 Flood Hazard Lands

The Flood Hazards Lands as identified in Appendix “A” to this By-law are lands within a Regional Floodplain or are subject to erosion, loose soils or steep slopes as identified by the Lake Simcoe Region Conservation Authority. In addition to the underlying Zone standards, the regulations of the Conservation Authority may further restrict **development** and the use of the lands. Notwithstanding any other provision of this By-law, written approval of the Conservation Authority shall be required and submitted with any **building** permit application and prior to the addition or removal of fill, whether originating on the site or elsewhere for any lands located within the regulated areas. All uses, **buildings** or **structures** shall meet all other provisions of this By-law. Appendix “A” may be amended without the need for a zoning by-law amendment.

4.11 Frontage on a Street

Unless otherwise specified by this By-law, no person can erect or use any **building** or **structure** in any **Zone** unless the **lot** to be used, or upon which the **building** or **structure** is situated or proposed to be erected:

- a) Abuts or fronts on a **street** or a 0.3 metre **reserve** abutting said **street**. For the purpose of this section, a **street** does not include an unopened road allowance; or,
- b) Is being constructed pursuant to a Subdivision, Site Plan or Condominium Agreement with a **public authority**; or,
- c) Has legal access to a public **street**. For the purpose of this Section, a **lot** with legal access to a public **street** is deemed to meet the **lot frontage** requirements of the applicable zone.

4.12 Group Homes

Where a **group home** is permitted in a **zone**, the following provisions shall apply:

- a) Only 1 **group home** shall be permitted per **dwelling unit**;
- b) The minimum distance between a **group home** and any other **group home** shall be 500 metres measured in a straight line from **lot line** to **lot line**;
- c) The minimum required **gross floor area** per resident is 23.0 square metres.

4.13 Height Exceptions

- a) The **height** requirements of this By-law shall not apply to:
 - i) **Place of worship** belfries and spires;
 - ii) Clock towers and flagpoles;
 - iii) Communication towers and antennas;
 - iv) Water storage tanks;
 - v) Any ornamental roof construction features including but not limited to domes, towers, cupolas, and steeples;
 - vi) Aggregate processing facilities;
 - vii) Solar panels;
 - viii) Storage tanks and silos associated with an **industrial use** in an Employment **Zone**;

- ix) **Buildings** and **structures** associated with a public or **municipal works depot**; and,
 - x) Agricultural **buildings** and **structures**, including silos and grain elevators.
- b) The following ornamental features are permitted to project a maximum of 5.0 metres above the highest point of the roof surface, regardless of the **height** of the **building**, provided they do not occupy more than 30% of the area of the roof:
- i) Skylights;
 - ii) Vents;
 - iii) Chimneys; and
 - iv) Bulkheads.
- c) All heating, ventilation and air conditioning equipment (hvac) that may or may not be enclosed in a **mechanical penthouse** may be permitted to project subject to Section 4.27.

4.14 Home Businesses

Where a **home business** is permitted in a **zone**, the following provisions shall apply:

- a) Not more than one non-resident employee, shall be engaged in the **home business**;
- b) The **use** is entirely restricted to the **dwelling unit** and/or an **accessory building or structure** or **private garage** where permitted;
- c) An **accessory building or structure** may only be used for the purpose of a **home business** if the **lot** is a minimum of 2.5 hectares in size and the **home business** does not occupy more than 50 square metres of the **accessory building or structure**;
- d) The maximum **gross floor area** dedicated to the **home business** shall be 25 percent of the **gross floor area** of the **dwelling unit** or 50 square metres whichever is the lesser;
- e) The **home business use** shall be clearly secondary to the **main use** of the **dwelling unit** and there is no change in the external character of the **dwelling unit** or **lot** as a private residence, with the exception a legal sign erected in accordance with The **Town** of East Gwillimbury Sign By-law;
- f) There shall be no **outdoor storage** or **outdoor display and sales area** of materials or goods in conjunction with the **home business**;

- g) A **home business** shall not create noise and dust that is detectable outside of the **dwelling unit**, or any odorous, toxic or noxious matters or vapours;
- h) An **animal daycare centre** with 5 or less household pets may be permitted as a **home business**;
- i) **Uses** that shall not be permitted as a **home business**, include, but are not limited to, the following:
 - i) **Adult entertainment use**;
 - ii) **Animal clinic**;
 - iii) Dating/escort services;
 - iv) **Contractor yard**;
 - v) **Kennel**;
 - vi) Taxi service depot and limousine businesses;
 - vii) Paint shop or furniture stripping; and,
 - viii) The on-site storage, repair, maintenance sale, and/or towing of **motor vehicles, recreational vehicles** or engines.

4.15 Kennels

Where permitted by this By-law, a **kennel** is subject to the following provisions:

- a) Maximum **gross floor area**, inclusive of outdoor exercise areas and pens – 100 square metres.
- b) Minimum **setback** from any **lot line** for all **kennel** related facilities – 60 metres.
- c) Minimum separation distance between **kennels** on separate **lots** – 500 metres.

4.16 Legal Non Compliance and Legal Non-Conformity

4.16.1 Non-Complying Buildings and Structures

- a) A **non-complying building** or **structure** that does not comply with this By-law, but which was legally erected/alterd in accordance with a Zoning By-law that was in effect in accordance with Section 34 of the Planning Act R.S.O. c. P. 13 as amended at the time of construction and/or alteration may be enlarged, repaired, **reconstructed** or renovated provided that the enlargement, repair, **reconstruction** or renovation:
 - i) Does not further encroach into a **minimum** required **setback**;

- ii) Does not increase the amount of floor area or volume in a **minimum** required **setback**;
 - iii) Does not in any other way increase a situation of non-compliance; and,
 - iv) Complies with all other applicable provisions of this By-law.
- b) Nothing in this By-law shall prevent the continuation of **existing buildings** or **structures** within the **Oak Ridges Moraine** provided the **building** or **structure** was legally in existence as of November 15, 2001.
 - c) The replacement or **reconstruction** within the same location and dimensions of a legally **existing building** or **structure** that is damaged or destroyed by causes beyond the owner's control is permitted and the **reconstructed building** or **structure** shall be deemed to be an **existing building** or **structure** if there is no change in use.

4.16.2 Non-Complying Lots

A **lot** in existence prior to the effective date of this By-law that does not meet the **lot area** and/or **lot frontage** requirements of the applicable **zone**, may be used and **buildings** and **structures** thereon may be erected, enlarged, repaired or renovated provided the **use** conforms with the By-law and the **buildings** or **structures** comply with all of the other provisions of this By-law.

4.16.3 Non-Compliance as a Result of Land Acquisition by a Public Authority

Notwithstanding any other provision in this By-law, where, as a result of an acquisition of land by the **Town**, **Region**, the Province of Ontario, the Government of Canada or any department, board, commission or agency thereof, and where such acquisition results in a contravention of this By-law, the following applies:

- a) If the acquisition results in a contravention of this By-law with respect to minimum **lot frontage** and **lot area** requirements, the remaining **lot frontage** and/or **lot area** shall be deemed to be legal **non-complying**;
- b) If the acquisition results in a contravention of this By-law with respect to parking, loading, **planting strip**, **front yard**, **interior side yard**, **exterior side yard**, **rear yard**, **lot coverage** or landscaped open space requirements, the lands so affected are deemed to comply with this By-law to the extent it complied with this By-law on the day before the acquisition was finalized; and

- c) Notwithstanding subsection (b), no new **building, structure** or addition to a legally **existing building or structure** shall be erected or located except in accordance with all the provisions of this By-law, excluding subsection (a).

4.16.4 Non-Conforming Uses

- a) No lands can be used and no **building or structure** can be used except in conformity with the provisions of this By-law unless such **use** legally existed before the date of passing this By-law and provided that it has continued and continues to be used for such purpose, and that such **use**, when established, was not contrary to any By-law in force at that time.
- b) Nothing in this By-law shall prevent the continuation of **existing uses** within the **Oak Ridges Moraine** provided the use was legally in existence as of November 15, 2001.

4.17 Medical Marihuana Production Facilities

Where **medical marihuana production facilities** are permitted in this By-law, the following provisions shall apply:

- a) **Medical marihuana production facilities** are prohibited in **dwelling units**.
- b) **Medical marihuana production facilities** are prohibited from locating within 70 metres, measured property line to property line, of the following uses:
 - i) **Community centres;**
 - ii) **Child care centres;**
 - iii) **Dwelling units in any zone;**
 - iv) **Public parks and private parks; and,**
 - v) **Public and private schools.**

Notwithstanding the above, no **medical marihuana production facility** legally established under these provisions shall be deemed to be in violation under this section by the subsequent erection of the above uses constructed on another lot.

- c) No store fronts or onsite retail distribution shall be permitted in conjunction with a **medical marihuana production facility**
- d) No outdoor signage or advertising shall be permitted.
- e) No part of a **medical marihuana production facility** including storage and **accessory uses**, may be located outside.

4.18 Multiple Uses and Zones on one Lot

- a) Where any **building, structure** or **lot** is used for more than one purpose as provided by this By-law, the said **building, structure** or **lot** must comply with the provisions of this By-law relating to each **use**, unless otherwise specified in this By-law.
- b) Where a **lot** is divided into more than one **zone**, each portion of the **lot** must be used for a purpose that is permitted within each applicable **zone**.
- c) In no case shall the **zone** boundary function as a **lot line** for the purposes of determining required **setbacks** and **minimum yards**. Notwithstanding the above, the maximum permitted **lot coverage** shall apply only to the portion of the **lot** that is within each respective **zone**, as required.
- d) Notwithstanding subsection (b) above, parking spaces and stacking spaces required by this By-law may be provided anywhere on a lot that falls into two or more zones except that portion of a lot in an Environmental Protection (EP) Zone.

4.19 Number of Dwelling Units on a Lot

Unless specifically permitted by this By-law, no more than one **dwelling unit** is permitted on a **lot**.

4.20 Oak Ridges Moraine Provisions

4.20.1 General

- a) The policies of this Section apply to lands within the **Oak Ridges Moraine** as shown on Schedule “A” to this By-law.
- b) New **rapid infiltration basins** and new **rapid infiltration columns** are prohibited on lands within the **Oak Ridges Moraine**, as shown on Schedule “A” to this By-law.
- c) The construction or expansion of **partial services** is prohibited within the **Oak Ridges Moraine**.

4.20.2 Areas of High Aquifer Vulnerability

Except for where specifically permitted in this By-law, the following **uses** are prohibited within an Area of High Aquifer Vulnerability as indicated by the corresponding overlay **zone** on the Maps comprising Schedule “B” hereto:

- a) Generation or storage of hazardous or liquid industrial **waste**;

- b) **Waste** disposal sites and facilities, organic soil conditioning sites, and snow storage and disposal facilities;
- c) Underground or above-ground **bulk storage tanks** that are not equipped with a secondary containment device; and,
- d) Any other contaminant listed in Schedule 3 (Severely Toxic Contaminants) to Regulation 347 as amended from time to time.

4.20.3 Landform Conservation Areas

Notwithstanding any other provision of this By-law, except for **existing uses, buildings and structures** as defined in Part 3.0 and the provisions of Section 4.20.1 of this By-law, **development** or **site alteration** on Category 1 and 2 lands as indicated on Schedule “C” shall also be subject to the following provisions. **Buildings** or **structures** that are greater than 500 square metres may only be permitted in accordance with the **Oak Ridges Moraine** Conservation Plan.

(Category 1)

Within any Landform Conservation Area (Category 1) as indicated on Schedule “C” attached hereto and forming part of this By-law:

- a) The **net developable area** of the site that is disturbed shall not exceed 25 percent of the total site area; and
- b) The **net developable area** of the site that has **impervious surfaces** shall not exceed 15 percent of the total site area.

(Category 2)

Within a Landform Conservation Area (Category 2) as indicated on Schedule “C” attached hereto and forming part of this by-law:

- a) The **net developable area** of the site that is disturbed shall not exceed 50 percent of the total site area; and
- b) The **net developable area** of the site that has **impervious surfaces** shall not exceed 20 percent of the total site area.

4.21 Outdoor Commercial Patios

Where an outdoor **patio** is located on a **lot** in conjunction with a **restaurant** on the same **lot**, the following provisions apply:

- a) The outdoor **patio** must be set back a minimum of 12 metres from a Residential **Zone** boundary.
- b) The outdoor **patio** must be located outside of any required **parking spaces** and required **planting strips**.

- c) The **patio** must be located outside of any required **daylighting or sight triangle**.
- d) The outdoor **patio** shall not exceed more than 50 percent of the **gross floor area** of the **restaurant** to which the outdoor commercial **patio** is associated.
- e) Rooftop outdoor **patios** shall be designed to prevent seating or standing within 1 metre of the edge of the **building**.

4.22 Outdoor Display and Sales Areas

Where an **outdoor display and sales area** is permitted on a **lot**, the following provisions apply:

- a) The **outdoor display and sales area** must be set back a minimum of 12 metres from a Residential **Zone** boundary.
- b) The **outdoor display and sales area** must be located outside of any required **parking spaces, daylighting or sight triangles** and required **planting strips**.
- c) Notwithstanding subsection (b), if the **outdoor sales and display area** is temporary, it may occupy up to 10 percent of the **parking spaces** required by this By-law for the **uses** that exist on the same **lot**.
- d) For the purposes of this Section, temporary shall mean a period of time not to exceed 90 days in a calendar year.
- e) The **outdoor display and sales area** must not obstruct pedestrian and vehicular traffic.

4.23 Outdoor Storage

Where **outdoor storage** is permitted in conjunction with a **building** or **structure** on the same **lot** and is not an **outdoor storage use**, the following provisions apply:

- a) **Outdoor storage** is only permitted on a **lot** if there is also a **building** or **structure** on the same **lot**. **Outdoor storage** cannot exceed the total **ground floor area** of all **buildings** and **structures** on the **lot**.
- b) **Outdoor storage** is only permitted in a **rear** or **interior side yard** and must not be located any closer than 20 metres to any **lot line** abutting a **street**.
- c) **Outdoor storage** shall be screened by opaque fencing or a masonry wall with a minimum **height** of 1.8 metres or a berm with a minimum **height** of 3.0 metres.

- d) No materials (other than machinery and equipment) in an outdoor storage area shall exceed 6.0 metres in **height**.
- e) **Outdoor storage** is not permitted within any **yard** abutting a Residential **Zone** boundary.

4.24 Outdoor Swimming Pools and Hot Tubs

The following regulations apply to outdoor **swimming pools** and hot tubs:

- a) Outdoor **swimming pools** and hot tubs are permitted in the **interior side, rear** and **exterior side yards**, provided they are set back a minimum of 1.2 metres from the **interior side** and **rear lot lines** and 1.5 metres from the minimum required **exterior side yard** for the **main building**, with the **setback** measured from the water's edge of the **swimming pool** or hot tub.
- b) The maximum **height** of a **swimming pool** or hot tub is 1.5 metres above grade.
- c) **Swimming pool** pumps, filters and heaters, are permitted in the **interior side, rear** and **exterior side yards**, provided they are set back a minimum of 0.6 metres from the **interior side** and **rear lot lines** and 1.5 metres from the minimum required **exterior side yard** for the **main building**.

4.25 Planting Strips

- a) A minimum 3.0 metre wide **planting strip** abutting the full length of a **lot line** is required on a **lot** in any Mixed Use, Institutional, Commercial or Employment **Zone** that abuts an **interior side** or **rear lot line** of a **lot** in any Residential **Zone**.
- b) Where there is a wall or fence having a **height** of 1.5 metres or more along an **interior side** or **rear lot line**, the width of the **planting strip** established in subsection (a) can be reduced to 1.5 metres in width.
- c) **Planting strips** required by this section of the By-law can be counted as part of any landscaped open space requirement of this By-law.

4.26 Residential Backyard Hens

- a) Notwithstanding any other provision of this By-law, the keeping or raising of hen(s) may be permitted in a Residential Zone for **lots** with a **lot area** greater than 1 acre and only in the **rear yard**.
- b) A rooster is not permitted in any Residential Zone.

4.27 Rooftop Mechanical Equipment and Mechanical Penthouses

The following provisions apply where rooftop mechanical equipment or **mechanical penthouses** are located on a roof:

- a) Mechanical equipment or a **mechanical penthouse**, including any appurtenances thereto, shall not exceed 5.0 metres in **height**;
- b) Rooftop mechanical equipment, including any appurtenances thereto, that exceeds 2.0 metres in **height** shall be fully enclosed within a **mechanical penthouse**; and,
- c) Rooftop mechanical equipment shall be set back a minimum of 5.0 metres from all edges of a roof if it is not fully enclosed within a **mechanical penthouse** or screened by an architectural feature.

4.28 Special Setbacks

4.28.1 Railway Right of Way Setback

Notwithstanding any other provision in this By-law, all residential, commercial, and institutional **buildings** and **structures**, with the exception of **parking garages**, must be located no closer than 30 metres from a railway right-of-way.

4.28.2 Provincial Highway Setback

Notwithstanding any other provision of this By-law, all **buildings** and **structures** must be located no closer than 14 metres from a Provincial highway right-of-way. Any **development** or proposed access within a Provincial Permit Control Area or Controlled Access Highway area will require the appropriate Provincial approvals in accordance with Provincial policies and guidelines.

4.28.3 Watercourse Setback

Notwithstanding any other provision of this By-law, all **buildings** and **structures**, other than water-related **buildings** and **structures**, such as boathouses and **marina buildings**, must be located no closer than 30 metres from the top of bank of any watercourse. This provision shall not prevent the expansion or replacement of a **building** or **structure** that

existed within the setback area on the effective date of this By-law, provided the expansion or replacement does not have the effect of reducing the setback from the top of bank of any watercourse or increasing the volume or floor area of a **building** or **structure** in a **minimum yard**.

4.28.4 Minimum Distance Separation

Notwithstanding any other provision of this by-law, the following shall apply:

- a) No **building** or **structure** associated with any residential, institutional, commercial, industrial, or recreational use shall be constructed or used on a lot unless it complies with Minimum Distance Separation Formulae (MDS I) for all nearby livestock facilities.
- b) No **building** or **structure** to be used for the purpose of housing livestock or manure shall be erected or expanded unless it complies with the Minimum Distance Separation (MDS II) Formulae.

4.29 Temporary Uses

4.29.1 Construction Uses

Notwithstanding any other provision of this By-law, **uses** incidental to construction such as a construction camp or other such temporary work camp, a tool shed, a scaffold or other **building** or **structure** incidental to the construction, and the parking or storage of any construction equipment or construction vehicle are permitted in all **zones**, subject to the following provisions:

- a) Such **uses** are permitted only for so long as they are necessary for work in progress that has neither been finished nor discontinued for a period of 60 days;
- b) A valid **building** permit or **site alteration** permit for the construction remains in place, if such a permit was required; and,
- c) **Uses** incidental to construction may be undertaken on the **lot** prior to the erection of the **main building**.

4.29.2 Model Homes

Model homes are permitted in all Residential and Mixed Use **Zones** on lands that have received draft plan of subdivision or condominium or site plan approval for residential purposes provided that:

- a) The **model home** is built within a **lot** defined by the draft approved plan of subdivision or condominium or approved site plan;
- b) Not more than the lesser of 5 dwellings or 10 percent of the total

number of residential units contained in the approved draft plan or site plan are constructed as **model homes**;

- c) The **model home** complies with all other requirements of this By-law for the applicable type of **dwelling unit**; and,
- d) The **buildings** are used for the purpose of **model homes** only and must not be occupied prior to the date of registration of the subdivision, condominium, site plan, or similar **development** agreement.

4.29.3 Temporary Sales Offices

Temporary sales offices used for the sale of residential, employment or commercial **lots** or units in a plan of subdivision, condominium or site plan are permitted in Commercial **zones** or in any **zone** within 120 metres of the approved **development**, subject to the following provisions:

- a) The temporary sales office is not permitted until an applicable plan of subdivision or condominium has received draft plan approval or the Site Plan has received **Town** approval or the property is in a **Zone** that permits the proposed **development**.
- b) Any temporary sales office is removed within 60 days after occupancy of the last unit or **dwelling unit** as the case may be.
- c) The temporary sales office must comply with the **minimum yards, height** and parking standards for the applicable **zone**.

4.29.4 Garden Suites

A **garden suite** may be permitted by way of a Temporary Use By-law. Where permitted by this By-law, the following provisions shall apply to **garden suites**:

- a) The maximum **height** is the lesser of 4.6 metres or one **storey**.
- b) The **garden suite** shall be located no closer to the **front lot line** than the main **dwelling unit**.
- c) The **garden suite** shall be located no closer than 2.5 metres from the **rear lot line** and be set back no closer to the **interior side** and **exterior side lot lines** than what is required for the **main building** on the **lot**.
- d) The **garden suite** shall be set back a minimum of 1.2 metres from any other **building** on the **lot**.
- e) The **garden suite** shall be accessed by the same **driveway** that accesses the **main building** on the **lot**.
- f) The maximum floor area of a **garden suite** shall not **exceed** 65 percent of the **gross floor area** of the **main building** on the **lot**.
- g) On **lots** not serviced by municipal water and sewage systems, a **garden suite** may only be permitted on **lots** with a minimum **lot** size of 0.8 hectares.

4.30 Uses Permitted in any Zone

4.30.1 Public Uses and Infrastructure

- a) **Public uses** are permitted in all **Zones**, with the exception of the **Oak Ridges Moraine Zones**. **Infrastructure** is permitted in all **Zones**.
- b) Where a **public use** and **infrastructure** are permitted, the following provisions apply:
 - i) Such **public use** and **infrastructure** must comply with all applicable **zone** standards, and parking requirements of the **zone** in which it is located.
 - ii) No **outdoor storage** or **outdoor storage use** is permitted unless specifically permitted in the **zone** in which the **public use** is located.
 - iii) Any **accessory use** to a **public use** must be clearly incidental and accessory to the **main use**.
- c) Notwithstanding 4.30.1(a), all new transportation, **infrastructure** and **utility uses** listed below, and all upgrading or extension of existing transportation, **infrastructure** and **utilities uses**, including the opening of a road within an unopened road allowance, may be permitted to cross lands within the Oak Ridges Moraine Core (ORMC) and Oak Ridges Moraine Core Linkage (ORMCL) **zones** as shown on Schedule "A" to this By-law, provided such use is in accordance with the policies in the **Oak Ridges Moraine Conservation Plan**:
 - i) Public highways and **streets**;
 - ii) Transit lines, railways and related facilities;
 - iii) Gas and oil pipelines;
 - iv) Sewage and water service systems and lines and **stormwater management facilities**;
 - v) Power transmission lines;
 - vi) Telecommunication lines and facilities, including broadcasting towers;
 - vii) Bridges, interchanges, stations, and other **structures**, above and below ground, that are required for the construction, operation or **use** of the facilities listed in clauses i) to vi) above; and
 - viii) Rights of way required for the facilities listed in clauses i) to vii) above.

4.30.2 Other Uses

Other **uses** permitted in any **Zone** are listed below:

- a) **Community gardens;**
- b) **Temporary farmers markets;**
- c) **Low intensity uses and low intensity accessory uses;**
- d) **Accessory uses;**
- e) **Accessory buildings and structures.**

4.31 Uses Prohibited in any Zone

The following uses are not permitted by this By-law:

- a) The use of any tent, trailer, **recreational vehicle** or **motor vehicle** for human habitation, except where such tent, trailer, **recreational vehicle** or **motor vehicle** is located in a **campground**, a trailer park or in a **mobile home** park, that is expressly permitted by this By-law;
- b) The use of any **accessory building or structure** for human habitation, unless such uses are specifically permitted by this By-law;
- c) The use of a truck, bus, coach body or rail car for human habitation or for storage purposes;
- d) The storage of disused rail cars, streetcars, buses, truck bodies or trailers without wheels;
- e) The parking or storage of trailers or **commercial motor vehicles** on a vacant **lot** unless **outdoor storage use** is specifically permitted on the **lot** by this By-law;
- f) The parking or storage of trailers or **commercial motor vehicles** on a **lot** for the sole purposes of advertising;
- g) The **outdoor storage** of partially dismantled or unplated **motor vehicles** or trailers or **motor vehicle** or trailer parts unless otherwise specifically permitted by this By-law;
- h) The manufacturing, refining, rendering or distillation of acid, ammonia, ammunition, chlorine, coal, creosote, explosives, fireworks, glue, petroleum or tar; and
- i) The extraction of peat in all wetlands.

4.32 Waste Storage Areas

- a) All **waste** generated by the occupants of 6 or more **dwelling units** on a **lot** or from any commercial, industrial or institutional **use** must be stored inside a **building** or **structure** on the same **lot** or deposited in purpose built fully enclosed, stationary receptacle(s) that are designed for that purpose and which can only be moved by a **motor vehicle** or machine provided the **waste** storage **building** or **structure** or purpose built fully enclosed, stationary receptacle:
 - i) Is located within the **interior side** or **rear yard**;
 - ii) Is located no closer to any **lot line** than required for an **accessory building** or **structure** by this By-law;
 - iii) Does not occupy any required **parking spaces** and the access to **parking** and **loading spaces**; and,
 - iv) Is located outside of any required **planting strip**.
- b) Where a **waste** storage **building** or **structure** is provided in accordance with subsection (a) above, the **building** or **structure** must be surrounded on all sides by masonry, concrete, or wooden walls in order to provide screening. This provision does not apply to a purpose built fully enclosed, stationary receptacle.
- c) Notwithstanding subsections (a) and (b) above, the temporary storage of **waste** in any type of container or receptacle is permitted anywhere on a **lot** if construction, demolition, or **site alteration** works are occurring on the same **lot**, and only as long as these activities are occurring.

4.33 Wellhead Protection Areas

The following uses are designated Restricted Land Uses for the purposes of Section 59 under the Clean Water Act, 2006, where the Risk Management Official will determine if a Risk Management Plan is required, under Section 58, within **Wellhead Protection Area C**:

- a) Agricultural outdoor confinement or farm animal **yards** where the number of confined animals would generate more than 300 nutrient units/hectare/year
- b) Agricultural Storage **Buildings** used for agricultural source material (ASM) which includes, but is not necessarily restricted to the following materials:
 - i) Animal manure including bedding materials
 - ii) Milk house wash water
 - iii) Mushroom compost
 - iv) Regulated compost

4.33.1 General Provisions

- a) The following provisions apply to all lands shown as **Significant Threat Areas 1, 2, 3 and 4** on Schedule “D” to this By-law.
 - i) Where this is a conflict between this By-law, the Official Plan or the South Georgian Bay Lake Simcoe Source Protection Plans, the more restrictive provisions shall prevail.
 - ii) Where a use is prohibited in STA-1, STA-2, STA-3 and STA-4 and the use exists and was legally established prior to the effective date of this By-law, the use shall continue to be permitted in accordance with the use provisions of the underlying **Zone**, but no expansion of any **building** or **structure** for a use listed in Section 4.33 of this By-law shall be permitted.

4.33.2 Source Water Protection Significant Threat Area 4 (STA-4)

- a) Notwithstanding any other provisions of this By-law to the contrary, the following uses are prohibited within **Significant Threat Area 4 (STA-4)** as shown on Schedule “D” of this By-law:
 - i) Establishments or facilities for the handling, storage, processing and manufacturing of **dense non-aqueous phase liquids (DNAPLs)** including, but not necessarily restricted to the following:
 1. Dry Cleaning and Laundry Plants which utilize **DNAPLs** in the cleaning process;
 2. Automotive Sales and Service Establishments which use degreasers, paints, enamels, cleaners and adhesives that contain **DNAPLs**;
 3. Printing, Publishing and Allied Industrial Establishments which use **DNAPLs** as part of the printing process;
 4. Establishments selling paints, enamels, furniture strippers, paint thinners, lacquers which contain **DNAPLs**;
 5. Establishments which store, use or sell cleaning supplies and glass cleaners which contain **DNAPLs**;
 6. Manufacturing Industrial Establishments that utilize **DNAPLs** as part of the manufacturing and or processing.

4.33.3 Source Water Protection Significant Threat Area 3 (STA-3)

- a) Notwithstanding any other provisions of this By-law to the contrary, the following uses are prohibited within **Significant Threat Area 3 (STA-3)** as shown on Schedule “D” of this By-law:

- i) All of the prohibited uses in **Significant Threat Area 4**,
- ii) **Waste Storage Sites, Waste Processing Stations, Waste Transfer Stations** and Facilities for the Landfilling of Municipal **Waste** and/or Solid Non-hazardous Industrial or Commercial **Waste**, and
- iii) **Waste Disposal Sites** where Liquid Industrial **Waste** is injected into a Well.

4.33.4 Source Water Protection Significant Threat Area 2 (STA-2)

- a) Notwithstanding any other provisions of this By-law to the contrary, the following uses are prohibited within **Significant Threat Area 2 (STA-2)** as shown on Schedule “D” of this By-law:
 - i) All of the prohibited uses in **Significant Threat Areas 3 and 4**,
 - ii) **Waste Water Treatment Plant & Disposal Facilities** (includes lagoons, communal/municipal sewage treatment facilities, large sewage vaults at sewage pumping stations) but exclude facilities regulated under the Nutrient Management Act,
 - iii) **Waste Storage and Disposal Sites & Facilities** for hazardous liquid industrial **waste** at landfills and transfer stations,
 - iv) **Waste Storage and Disposal Sites and Facilities** for **wastes** described in the clauses for p, q, r, s, t and u of the definition of **hazardous waste** (O.Reg 347) at landfills and transfer stations as outlined in the Assessment Reports,
 - v) **Waste Storage and Disposal Sites for PCB Waste**,
 - vi) **Waste Storage, Treatment and Disposal Sites & Facilities for Tailings from Mines**,
 - vii) Petroleum Refining **Waste Sites and Facilities for Landfarming**,
 - viii) **Hazardous Waste Storage, Treatment and Disposal Sites and Facilities**.
 - ix) Road Salt Storage Facilities where the quantity is more than 5,000 tonnes,
 - x) Snow Storage Facilities and Disposal Sites (includes **parking lots**): at or above grade where the storage area is more than 1 hectare in area, except in emergency scenarios or below grade where the storage area is more than 0.01 hectares in area.
 - xi) Non-residential, Industrial, Commercial, Institutional, Agricultural and Multi-residential Liquid Fuel and Fuel Oil Storage Facilities where the fuel is stored partially or below grade where the fuel quantity is more than 250 Litres or 2,500 Litres above grade which includes, but is not necessarily restricted to the following establishments:

1. Permanent or mobile fuel or gasoline retail outlets
 2. Gasoline stations
 3. Bulk plants
 4. **Marinas**
 5. Private fuel outlets
 6. Farms
- b) Establishments or Facilities for the handling, storage and processing of **Organic Solvents** which includes, but not necessarily restricted to the following:
- i) **Motor vehicle sales / rental establishments and motor vehicle repair garages** which use degreasers, paints, enamels, cleaners and adhesives containing **organic solvents**
 - ii) Establishments which store, use or sell cleaning supplies and glass cleaners which contain **organic solvents**
- c) Agricultural Storage **Buildings** used for agricultural source material (ASM) which includes, but is not necessarily restricted to the following materials:
- i. Animal manure including bedding materials
 - ii. Milk house wash water
 - iii. Mushroom compost
 - iv. Regulated compost
 - v. Animal **yard** run-off and manure
- d) Commercial Fertilizer Storage Facilities for retail sale or storage where the total mass in any form (liquid or solid) is more than 2,500 kg
- e) Residential **dwelling units** where fuel oil storage of more than 250 L of fuel oil is located partially or below grade
- f) **Agricultural uses** which include livestock grazing and pasturing that generates nutrient units at an annual rate that is greater than 0.5 nutrient units/acre
- g) Storage Facilities which contain pesticides for retail sale or storage in relation to its use in extermination where the total mass in any form (liquid, solid or gas) is more than 250 kg, and
- h) Establishments where pesticides are manufactured, processed or wholesaled for retail and extermination where the total mass is more than 2,500 kg.

4.33.5 Source Water Protection Significant Threat Area 1 (STA-1)

- a) Notwithstanding any other provisions of this By-law to the contrary, the following uses are prohibited within **Significant Threat Area 1 (STA-1)** as shown on Schedule “D” of this By-law:
 - i) All of the activities prohibited in **Significant Threat Areas 4, 3 and 2**, and
 - ii) Agricultural outdoor confinement or farm-animal **yards** where the number of confined animals would generate more than 300 nutrient units/hectare/year, and
 - iii) Storage Facilities for Non-Agricultural Source Material (NASM) – Category 1.

SECTION 3 GENERAL PROVISIONS

3.1 CONTENTS

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3.2 APPLICATION

The provisions of Section 3 shall apply to all zones, unless otherwise specified in these provisions.

3.3 ACCESSORY BUILDINGS AND STRUCTURES

The following provisions shall apply to **accessory buildings** and **structures**:

- a) The total **lot coverage** of detached **accessory buildings** and **structures** including **decks**, detached **private garages** and other **accessory buildings** and **structures** shall not exceed 10% of the **lot area** except that where a **swimming pool** is provided, the total **lot coverage** for **accessory uses** shall not exceed 20%. That any at grade recreational use(s) such as but not limited to basketball courts, tennis courts, outdoor hockey rinks, etc., shall meet the minimum setback

provisions for an **accessory structure** and that recreational use(s) at grade shall be exempt from **lot coverage** requirements. (By-law 031-17)

- b) The **gross floor area** or footprint of an **accessory building** or **structure** shall not exceed 50 square metres in any Residential **zone**, except in the Rural Residential **Zone**. This provision shall not apply to an **attached deck/porch/verandah/balcony, swimming pool, boathouse, or dock** permitted in accordance with the provisions of this By-law. (By-Law 031-17)
- c) In all Residential **zones**, the setbacks for **accessory buildings** and **structures** shall be in accordance with the setbacks for **accessory buildings** and **structures** specifically indicated in the Zone Regulations. In all other zones, **accessory buildings** and **structures** shall be subject to the same required **yard setbacks** as the **principal buildings**, as indicated in the zone regulations.
- d) Notwithstanding any other provision of this By-law, no **accessory buildings** and **structures**, except **farm gates sales**, shall be located closer to the **front lot line** than the **principal building** in any **zone**, except where specifically permitted by this By-law. Additionally, except in the case of a residentially zoned shoreline property, no detached **accessory structure** shall be permitted in the front yard.
- e) Notwithstanding any other provision of this By-law, no **accessory buildings** and **structures** shall be located closer to the exterior **side lot line** than the **principal building** in any **zone**, except where specifically permitted by this By-law.
- f) Where an **accessory building** is **attached** to the **principal building**, the **front yard, side yard, rear yard** and **lot area** requirements of this By-law must be complied with as if the **accessory building** was part of the **principal building**.
- g) Except in the case of an **accessory building** to an **agricultural use**, no **accessory building** shall exceed the **height** of the **principal building** on the **lot** or 5.0 metres, whichever is the lesser.
- h) No **person** shall **use** an **accessory building** as a **dwelling** or **dwelling unit** except where specifically permitted by this By-law.

3.4 ACCESSORY DWELLING UNITS (NON-RESIDENTIAL ZONES)

Where an **accessory dwelling unit** is permitted in association with a **non-residential use** as indicated in this By-law, the following provisions shall apply:

- a) An **accessory dwelling unit** may be permitted with private water supply and sewage system having the approval of the appropriate approval authority, as provided in certain non-residential **zones**.
- b) An **accessory dwelling unit** that is located in a separate **building** shall have a minimum floor area of 93 square metres.
- c) An **accessory dwelling unit** that is **attached** to or is within a non-residential **building** shall have a minimum floor area of 56 square metres.

- d) An **accessory dwelling unit** shall have separate bathroom and **kitchen** facilities from those of the **non-residential use**.
- e) **Parking spaces** in addition to the requirements of the **principal use** on the **lot** shall be provided for the **accessory dwelling unit** in accordance with the provisions of Section 3.35.
- f) The entrance to the **dwelling unit** must be separate from the **building** entrance provided for the non-residential **zone**.
- g) In a Commercial **Zone**, no **dwelling unit** may be located in a non-residential **building** except on the second **storey** of that **building** or at the rear of such **building** if on the main floor.
- h) The **gross floor area** of the residential portion of a non-residential **building** in a Commercial **Zone** must not exceed 100% of the non-residential floor area of the **building**.
- i) Notwithstanding any other provisions of this By-law, no **dwelling unit** shall be located in a non-residential **building** that is used, in whole or in part, for a **motor vehicle service station, motor vehicle repair garage or motor vehicle body shop**.
- j) No detached **accessory dwelling unit** shall be located closer than 6 metres to any other **building** on the **lot** except a **building** that is **accessory** to the detached **accessory dwelling unit**.

3.5 ACCESSORY SECOND DWELLING UNITS (RESIDENTIAL ZONES)

Notwithstanding any other provisions of this By-Law to the contrary, the following provisions shall apply so as to permit the construction of second dwelling units, including a garden suite, as an **accessory use** to a **single-detached, semi-detached, or street townhouse dwelling** in the permitted zones within the Town of Innisfil: (By-law 016-16)

General

- a) Only one (1) second **dwelling unit** will be permitted per **lot**. The **principal dwelling** must be a legally permitted use on the **lot**.
- b) A second **dwelling unit** shall be a self-contained **dwelling unit** with bathroom, **kitchen** and sleeping facilities that are separate from those of the **principal dwelling** on the lot. The second **dwelling unit** can be contained within the **principal dwelling** or in an **attached** or detached **accessory structure** on the lot.
- c) The second **dwelling unit** shall not be greater than 50% of the **gross floor area** of the **principal residential structure** on the **lot**, up to a maximum size of 100 square metres.
- d) The second dwelling unit shall have a maximum of 3 bedrooms.

- e) All second **dwelling units** must comply with the **coverage** and **setback** requirements specified in this By-Law.
- f) Second **dwelling units** shall maintain or improve on-site storm water management and site drainage. To ensure compliance, the Town may require a site grading plan.
- g) Second **dwelling units** shall not be permitted within a lodging house or a **group home** or on a lot with a **garden suite**.
- h) The second **dwelling unit** shall not be severed from the **lot** of the **principal dwelling**.

Parking

- i) In addition to the parking requirements for the **principal use** in accordance with the provisions of Section 3.35, for a second dwelling unit that has one (1) bedroom or less, a minimum of one (1) off-street **parking space** must be provided on the **lot** of the subject property. For second dwelling units that have two (2) bedrooms or more, a minimum of two (2) off-street **parking spaces** must be provided on the **lot** in addition to the parking requirements for the **principal use**. **Tandem parking** is permitted. Notwithstanding the provisions of 3.35.2 in this By-Law, exterior **parking spaces** on the **lot** shall be a minimum of 2.5 metres in width and 5 metres in length.
- j) A minimum of 40% of the **front yard** of a **lot** used for second **dwelling unit** purposes shall be provided and maintained as **landscaped open space** and such open space shall not be utilized for **parking space** and/or **driveway** purposes.

Entrance/Access

- k) The entrance to a second **dwelling unit** must be separate from the entrance provided for the **principal dwelling**. For second **dwelling units** that are contained within or attached to the **principal dwelling**, the separate entrance may be accessed from the outside of the building or from a common hallway or stairway from inside the building. Where only one entrance to the second dwelling unit is provided, it must not be from the inside of a **garage**, unless the **garage** has a separate vertically swinging door that provides direct outdoor access.
- l) Where the only entrance to a second **dwelling unit** is provided from the **rear yard** or **side yard**, the entrance must be accessed by a continuous, unobstructed path of travel of at least 1 metre wide between the main wall of the **building** and the **side lot line**.

Detached Second Units

- m) The maximum **height** for a detached second **dwelling unit** shall be 5 metres.
- n) Detached second **dwelling units** shall only be permitted on a **lot** that has a minimum size equal to or greater than 1000 square metres.

Restricted Areas

- o) Detached second **dwelling units**, including **garden suites**, shall not be located more than 60 metres from the **principal dwelling** on the **lot**. (By-law 016-16)

- p) Second **dwelling units**, parking, and sewage disposal systems shall not be permitted in hazard lands (areas subject to flooding or erosion) and hazardous sites (unstable soils) as determined in consultation with the appropriate Conservation Authority.
- q) Second **dwelling units** shall not be permitted on a **lot** serviced by a private septic system which is located within 100 metres of the Lake Simcoe shoreline.
- r) Second **dwelling units** shall not be permitted within provincially significant wetlands, the habitat of endangered species, and key natural heritage and hydrologic features as defined by the Lake Simcoe Protection Plan.
- s) Second **dwelling units** shall not be permitted on a **lot** within the Cookstown Settlement Area until sufficient servicing capacity is available, subject to the determination of the Town's Engineering Department.
- t) Second **dwelling units** shall not be permitted on a **lot** that is directly accessed by a **private road**.

Regulation

- u) The property owner must register the second **dwelling unit** with the Town and shall be in compliance with any applicable Registration By-Law. (By-Law-016-16)

3.6 ACCESSORY INDUSTRIAL EQUIPMENT

In addition to all other requirements of this By-law, the following shall apply to **accessory industrial equipment**:

- a) **Accessory industrial equipment** shall be permitted in any Industrial zone.
- b) Notwithstanding the **rear yard** requirements in the industrial zones, **accessory industrial equipment** may be located in the required **rear yard** of an industrial zone; however, no **accessory industrial equipment** shall be located closer than 3.0 metres to any **lot line**.
- c) Notwithstanding any other provisions of this By-law, **accessory industrial equipment** shall not be located in a **yard** abutting a **street** except as provided in clause (d) below.
- d) Where **accessory industrial equipment** is located in the **rear yard** of a **corner lot**, no such equipment shall be **erected** at a distance closer to the **exterior lot line** than the depth of the **front yard** required for a **building** on the adjoining **lot**.

3.7 ACCESSORY RETAIL USES

Where an **accessory retail use** is permitted in association with a **non-residential use** as indicated in this By-law, the following provisions shall apply:

- a) **Accessory retail uses** shall be clearly subordinate, and clearly related to the primary use of the **lot** and **principal building** or **structure**.

- b) **Accessory retail uses** shall consist of the sale of goods manufactured or stored on the **premises**.
- c) The **gross floor area** of a permitted **accessory retail use** shall be a maximum of 15% of the **gross floor area** of the **principal building**.
- d) Parking shall be provided in accordance with Section 3.35, and shall be in addition to the **parking spaces** required for the primary **use** of the **lot**.

3.8 AVAILABILITY OF MUNICIPAL SERVICES

No **use** of land or the **erection** or **use** of **buildings** or **structures** are permitted unless there are available private or **municipal services** and related capacity available to service the land, **buildings** or **structures**. Should adequate **municipal services** be available, any development or re-development of the land/**lot** be required to connect to **municipal services**. (By-law 031-17)

3.9 BED AND BREAKFASTS

Where a **bed and breakfast use** is permitted in accordance with this By-law, the following provisions shall apply:

- a) A **bed and breakfast** shall be permitted only in the **zones** indicated in this By-law and shall be clearly **accessory** to the main **residential use** and shall not change the residential character of the **lot**.
- b) A **bed and breakfast** shall contain no more than 3 guest rooms.
- c) No **person** other than the **person** residing in the residence containing the **bed and breakfast** shall be employed except as is necessary for housekeeping and food preparation purposes.
- d) A **bed and breakfast** shall be owned and operated by a **person** residing on the **premises**.
- e) The guest rooms shall not contain **kitchen** facilities.
- f) Parking shall be provided in accordance with Section 3.35.

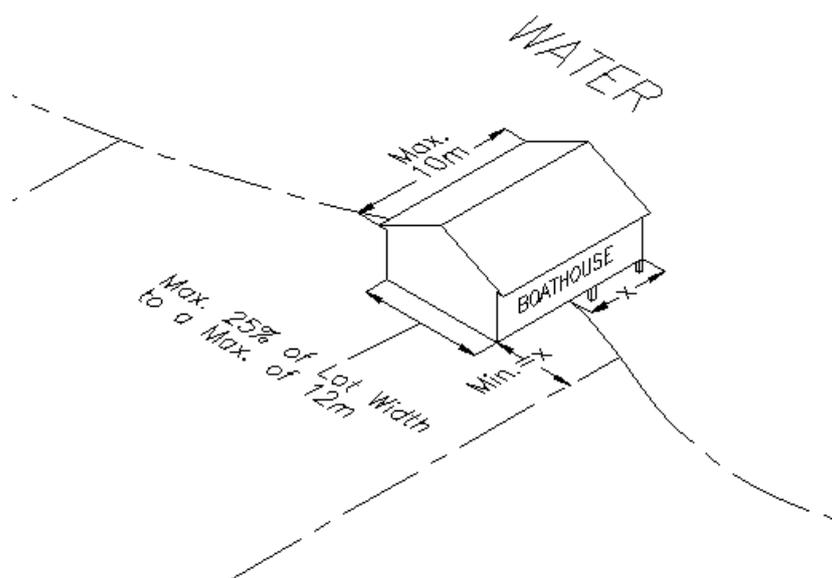
3.10 BOATHOUSES, DOCKS AND OTHER SHORELINE STRUCTURES

The following provisions shall apply to **boathouses**, **docks** and other similar shoreline recreational **structures**:

- a) No portion of a **boathouse** shall be used for human habitation, including a sleeping, cooking or living area.
- b) The maximum **height** of a **boathouse** shall be 5.0 metres.
- c) Notwithstanding any other requirement of this By-law, the minimum **waterfront**

yard setback of a **boathouse**, or portable boatlift **structure**, shall be 0.0 metres.

- d) Notwithstanding any other requirement of this By-law, the minimum **interior side yard setback** of a **boathouse** shall be the greater of 1.0 metre or equal to the length of the portion of the **boathouse** which projects beyond the **shoreline** into the water. Notwithstanding the foregoing, where an **existing boathouse** is located on the adjacent property, and the **existing boathouse** is located within the minimum **side yard setback** of the shared common **interior lot line**, the minimum **interior side yard setback** of the **boathouse** shall be 1.0 metre, and the **boathouse** may not project beyond the **shoreline** greater than that of the **boathouse** on the adjacent property.
- e) Notwithstanding subsection d), where a **side lot line** abuts a **shoreline**, a **boathouse** shall be permitted within the **side yard**, provided the **rear yard setback** of the **boathouse** is the greater of 1.0 metre or equal to the length of the portion of the **boathouse** which projects beyond the **shoreline** into the water. A **boathouse** shall not be permitted within the required **front yard setback** for **accessory buildings** or **structures**. Notwithstanding the foregoing, where an **existing boathouse** is located on the adjacent property, and the **existing boathouse** is located within the minimum **side yard setback** of the shared common **rear lot line** and **interior lot line**, the minimum **rear yard setback** of the **boathouse** shall be 1.0 metre, and the **boathouse** may not project beyond the **shoreline** greater than that of the **boathouse** on the adjacent property.
- f) The total width of a **boathouse** shall be a maximum of 25% of the **water frontage** or 12.0 metres, whichever is less.
- g) No **boathouse** shall exceed a total length of 10.0 metres, and where permitted, no **boathouse** shall project beyond the **shoreline** and into the water more than 10.0 metres.



- h) Gazebos, pergolas, hot tubs and other similar **structures** shall not be permitted on or within a **dock** or a **boathouse**.
- e) The General Provisions section of this By-law is considered to apply to all lands within the Corporate limits of the Town of Innisfil, including those lands not specifically zoned.

3.11 BUNKHOUSES

Where permitted by this By-law, **bunkhouses** shall be located within 200 m of the associated farm **dwelling**. **Bunkhouses** shall also be subject to the requirements for **accessory buildings** and **structures**.

3.12 CAMPGROUNDS

Where permitted by this By-law, **campgrounds** shall be in accordance with the following provisions:

- a) Notwithstanding any other provision of this By-law, the minimum **lot area** for a **campground** shall be 4.0 hectares.
- b) **Accessory commercial uses**, including a **laundry and dry cleaning depot**, as well as required parking, shall not exceed 5% of the **lot area** or 930 square metres, whichever is the lesser.
- c) A minimum of 5% of the **lot area** shall be used for **outdoor recreation** facilities.
- d) **Campgrounds** shall meet the requirements of any By-law and amendments thereto passed by the Town of Innisfil in accordance with the provisions of the *Municipal Act*, as amended, or any successor legislation thereto and where there is a conflict between any such By-law and this By-law, the By-law having the more stringent provisions shall apply.

3.13 DRIVE-THROUGH FACILITIES AND STACKING SPACES

Where a **drive-through facility** is permitted as an **accessory use** as indicated in this By-law, the following provisions shall apply:

- a) A **drive-through facility** associated with a **restaurant** shall include designated **stacking spaces** which shall accommodate a minimum of 10 vehicles.
- b) A **drive-through facility** associated with any other **use** besides a **restaurant** shall include designated **stacking spaces** which shall accommodate a minimum of four (4) vehicles.
- c) **Stacking spaces** shall be located on the same **lot** as the **drive-through facility** and **principal use** of the **lot**.
- d) **Stacking spaces** shall be 5.5 metres in length and 3.0 metres in width.

- e) A **stacking lane** for a **drive-through facility** including that portion of the lane past the **lane** past the service window and/or automated machine where orders are taken shall be **setback** a minimum of 20 metres from any type of residential **zone**. The required **setback** may be reduced to a minimum of 7.5 metres, provided that a noise wall, certified by a professional engineer, no taller than 1.8 metres exclusive of decorative elements, is installed prior to occupancy of the **drive-through facility**. The noise levels will not exceed the maximum levels specified by the Ministry of Environment's noise levels for stationary sources of noise.

3.14 DWELLINGS PER LOT

Except where specifically provided by this By-law, only one (1) **dwelling unit** shall be permitted on a **lot**.

3.15 FRONTAGE ON A STREET

3.15.1 No **person** shall **erect** any **building** or **structure** in any **zone** unless the **lot** upon which such **building** or **structure** is to be **erected** fronts upon a **street**. The above provisions do not apply to prohibit the **erection** of any **building** on a **lot** on a registered plan of subdivision where a subdivision agreement has been entered into but the **streets** will not be assumed until the end of the maintenance period, or instances where a condominium agreement has been entered into for the provision of common **driveways** or where similar suitable access arrangements have been provided. For the purposes of this section, a **street** does not include an unopened road allowance.

3.15.2 Section 3.15.1 does not apply to prohibit the **erection** of any **buildings** or **structures** on any **lot existing** on a **private road** at the date of passing of this By-law, but where all other provisions of this By-law apply.

3.15.3 Where lands are acquired for the purpose of a public utility line and the acquisition deprives a parcel of land of **street** frontage, the part of such parcel so deprived of **street** frontage is deemed, for the purpose of this By-law, to have frontage on the **street** provided the land has a permanent right of access to the **street**.

3.16 FRONT LOT LINE AND LOT FRONTAGE

The **front lot line** must not be less than 75% and not more than 125% of the **lot frontage**.

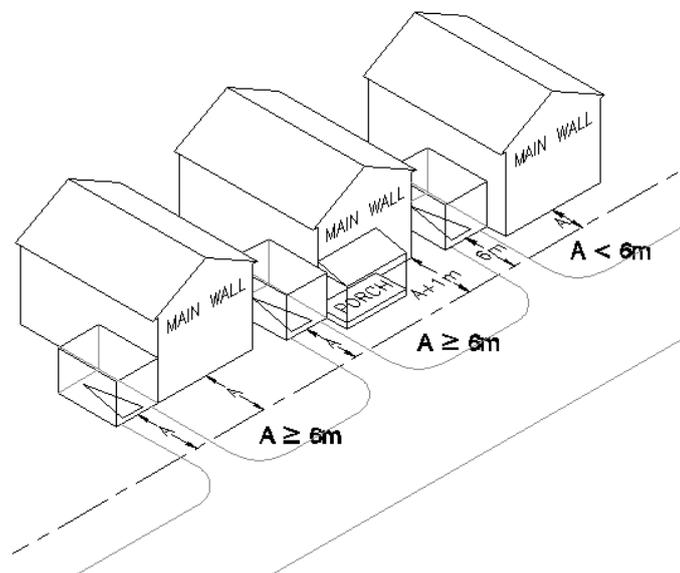
3.17 GARAGES

3.17.1 The following provisions shall apply to **garages**:

- a) The minimum **front yard setback** of a detached or attached **garage**, which faces the **street**, shall be 6.0 metres. Where the detached or attached **garage** faces a **side lot line**, the **front yard setback** shall be the same as the **principal building**.
- b) A **garage** shall not be considered as an **accessory building** or **structure**

if it is **attached** to the **principal building**. For clarification purposes, this provision means that the provisions of Section 3.3 apply to detached **garages**, and that the **attached garage** shall not be subject to the requirements of Section 3.3, but shall be subject to the applicable **yard** requirements for **principal buildings** on the **lot**, as contained in the **zone** regulations, as well as the provisions of this section.

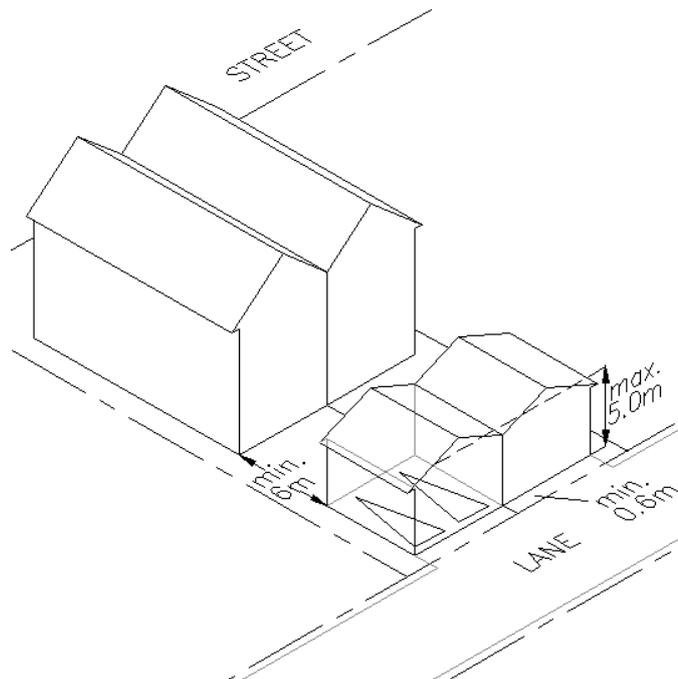
- c) A **garage** shall only be permitted in association with a **principal building** on the **lot**.
- d) A **garage** shall not be used for human habitation unless specific planning permissions have been granted.
- e) On **lots** with a **lot frontage** of less than 20.0 metres, a detached or **attached garage** shall not be permitted to project beyond the **main front wall** of the **principal building**. For the purposes of this section, the **main front wall** shall be determined to be the **main front wall** or that portion of the **main front wall** consisting of at least 50% of the **main front wall**. Where a front porch is provided, the detached or attached **garage** may project no more than 1.0 metre beyond the **main front wall** of the **principal building**.
- f) No **driveway** shall be permitted within a **daylighting triangle**.



- g) Only one (1) **driveway** shall be permitted per residentially zoned **lot** in a settlement area as defined by the Town of Innisfil Official Plan and zoned R1, R1A, R2, R3, RS, RT, excluding a **driveway** to access a **garage** by a rear lane. (By-law 031-17)

3.17.2 The following additional provisions shall apply to detached **garages** accessed by a rear **lane**:

- a) The minimum **rear yard** for a **garage** accessed by a rear **lane** shall be 0.6 metres.
- b) The minimum **interior side yard** of a **garage** accessed by a rear **lane** shall be equal to the **interior side yard** required for the main **building**. Notwithstanding this provision, a detached **private garage** may share a common wall with an adjacent detached **private garage** on an abutting **lot**.
- c) The maximum floor area of a **garage** accessed by a rear **lane** shall not exceed 20% of the **lot area**. For the purposes of this provision, the floor area of the **garage** shall not include a staircase or landing used to access the **garage** or any second **storey** above the **garage**.
- d) The maximum **height** of a detached **garage** accessed by a rear **lane** shall be 5.0 metres.
- e) A **private garage** accessed by a rear **lane** shall not be located closer than 6 metres to the **principal dwelling** on the same **lot**.

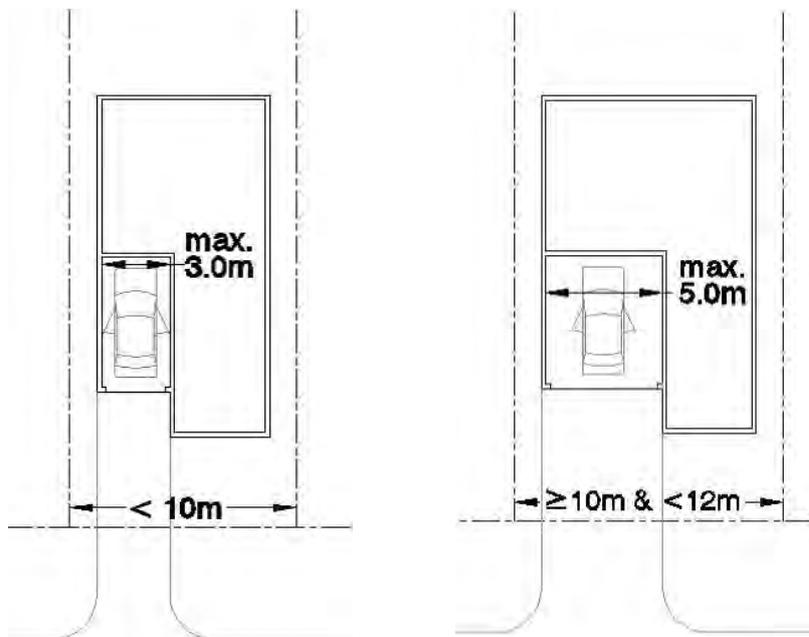


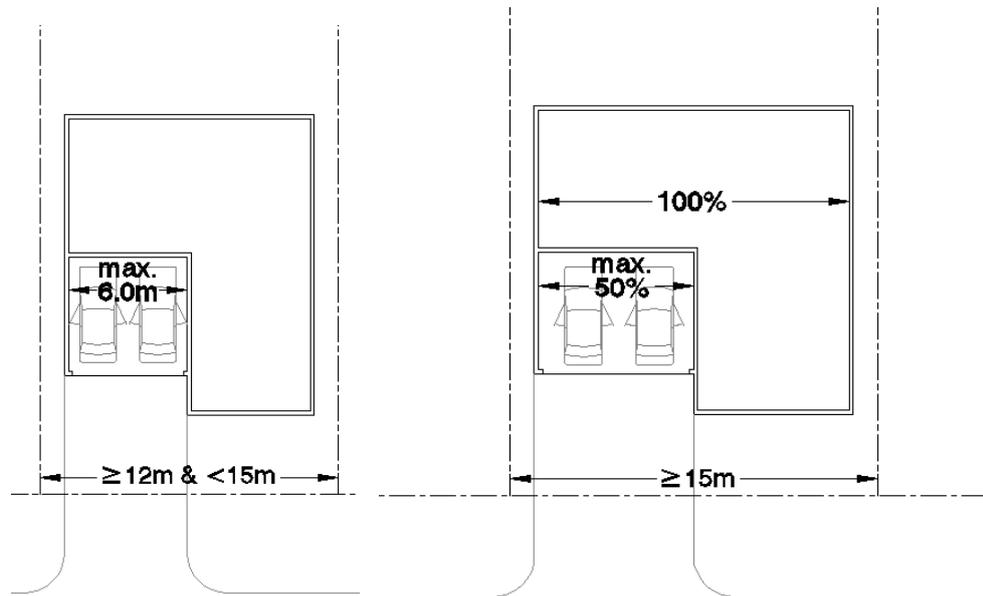
3.17.3 The maximum width of a **private garage** on a residentially zoned lot in an urban settlement area as defined by the Town of Innisfil Official Plan, excluding a **garage** accessed by a rear **lane**, shall be in accordance with the following provisions: (By-law 092-15)

- a) On **lots** with a **lot frontage** of less than 10 metres, the maximum interior

width of a **private garage** shall be 3.0 metres.

- b) On **lots** with a **lot frontage** equal to or greater than 10 metres but less than 12 metres, the maximum interior width of a **private garage** shall be 5.0 metres.
- c) On **lots** with a **lot frontage** equal to or greater than 12 metres and less than 15 metres, the maximum interior width of a **private garage** shall be 6 metres.
- d) On **lots** with a **lot frontage** equal to or greater than 15 metres, the maximum interior width of a **private garage** up to 50% of the width of the **main wall** of the **principal building** on the **lot**, to a maximum of 9 metres. This applies to a **private garage** with garage door opening(s) that face the **front yard**. (By-law 031-17)





3.17.4 Notwithstanding anything to the contrary, the general provisions of Section 3.17.1 e) and 3.17.3 a), b), c) and d), shall not apply to the lands described below:

- a) Registered Plan of Subdivision 51M-892 (South Part Lot 21, Concession 8)
- b) Registered Plan of Subdivision 51M-866 (North Part Lot 22, Concession 7)
- c) Registered Plan of Subdivision 51M-944 (South Part Lot 22, Concession 8)
- d) Registered Plan of Subdivision 51M-987 (North Part Lot 21, Concession 7)
- e) Draft Plan of Subdivision I-T-0502 (Block D and Part of Blocks B and C, 0.3 m Reserve and Sunshine Avenue, Registered Plan 1071).

3.17.5 Notwithstanding anything to the contrary, the general provisions of Section 3.17.1 e) and 3.17.3 d), shall not apply to the lands described below:

- f) Draft Plan of Subdivision I-T-90013 (Part Lot 15, Concession 3)
- g) Draft Plan of Subdivision I-T-880008 (South Part Lot 17, Concession 10)

3.17.6 Notwithstanding anything to the contrary, the general provisions of Section 3.17.1 e) shall not apply to the lands listed below:

- a) Registered Plan of Subdivision 51M-905 (Pt North Half Lot 23, Concession 7)

3.17.7 Notwithstanding anything to the contrary, the general provisions of Section 3.17.3 b) shall not apply to Lot 34, Plan 51M-905.

3.17.8 Notwithstanding anything to the contrary, the provisions of Section 3.17.3 b) shall not apply to the following lands:

- a) Registered Plan of Subdivision 51M-985
- b) Registered Plan of Subdivision 51M-1009
- c) Draft Plan of Subdivision I-T-0603 (Alcona Downs 2)
- d) Draft Plan of Subdivision I-T-0701 (Alcona Downs 3)

3.17.9 Notwithstanding anything to the contrary, the provisions of Section 3.17.1 e) and Section 3.17.3 b) shall not apply to the following lands:

- a) Registered Plan of Subdivision 51M-852
- b) Registered Plan of Subdivision 51M-897
- c) Registered Plan of Subdivision 51M-905

3.18 GARDEN SUITES

A **garden suite**, as defined in this By-law, may be permitted subject to the provisions for Accessory Second Dwelling Units in Section 3.5 and furthermore may be subject to an agreement with the **Town**. (By-law 016-16)

3.19 GROUP HOMES

Where permitted by this By-law, **group homes** shall be subject to the following provisions:

- a) Where permitted by this By-law, **group homes** shall be subject to the **zone** regulations within which the **group home** is permitted.
- b) A **group home** shall comprise the sole **use** of the **dwelling**.
- c) Parking for a **group home** shall be provided in accordance with Section 3.35.

3.20 HAZARD LANDS (REGULATED AREA) AND NATURAL ENVIRONMENTAL AREA

3.20.1 HAZARD LANDS (REGULATED AREA)

- a) Lands located within the Hazard Lands overlay illustrated on Schedule "A" are lands that are susceptible to flooding or erosion hazards, as mapped by the applicable Conservation Authority. The delineation of Hazard Lands is intended to illustrate the Conservation Authority's regulated area, which is based on the most current information available, and may not be accurate or up to date in some areas. No new **buildings** and **structures** or expansions to **existing buildings** and **structures**, or the removal or placement of fill, shall be permitted within Hazard Lands in accordance with the regulations of the underlying **zone** except

with prior written approval from the applicable Conservation Authority. This requirement does not apply to **lots** or blocks which have already received Conservation Authority permits.

- b) **Institutional uses** and essential emergency services, including: **day nurseries, community centres, government facilities, hospitals, long-term care homes or nursing homes, retirement homes, schools, and University and Colleges**, shall be prohibited in the regulatory flood plain, as more specifically defined by the Conservation Authority having jurisdiction.
- c) Notwithstanding any other provision in this By-law, no new **buildings** or **structures** shall be located within 30 metres of the top of bank of any **watercourse**, with the exception of lands within settlement areas as defined by the Growth Plan for the Greater Golden Horseshoe and the *Lake Simcoe Protection Act*. This provision shall not prevent the expansion or replacement of **buildings** or **structures** that legally existed prior to the passing of this By-law within the setback area, provided the expansion or replacement does not have the effect of reducing the **setback** from the top of bank of any **watercourse** or increasing the **floor area** of a **building** or **structure** in a minimum required **yard**.
- d) Notwithstanding any other provision in this By-law, no **building** or **structure** shall be located within 6.0 metres from the top of stable slope for slopes that generally exceed 33% or a 3:1 ratio.
- e) Notwithstanding any other provision in this By-law, no new **dwelling** shall be permitted in areas with extreme flood depths, to be determined in consultation with the appropriate Conservation Authority.

3.20.2 NATURAL ENVIRONMENTAL AREA

Lands located within the Natural Environmental Area illustrated on Schedules "B" to "B14" of the Town Official Plan are natural features that are considered to be significant at a Provincial, regional or local level. The delineation of the Natural Environmental Area is based on the most current information available, and may not be accurate or up to date in some areas.

- a) Development and site alteration shall not be permitted unless it is demonstrated through the completion of an environmental analysis, such as an Environmental Impact Study, in accordance with the policies of the Official Plan, and to the satisfaction of the **Town** and applicable Conservation Authority, that there will be no negative impacts on the natural features or on their functions. The environmental analysis shall identify appropriate **setbacks** and buffers where required.
- b) Subject to the above, all permitted **uses, lot** and **building** requirements shall be in accordance with the underlying **zone** where the Natural Environmental Area is shown and in accordance with all other applicable provisions of this By-law.
- c) Notwithstanding the above, **existing agricultural uses** and legally **existing uses** are permitted.

3.21 HOLDING ZONES (H SYMBOL)

- 3.20.1 Holding (H) Zones are established and identified on Schedule “A” to this By-law in parenthesis following the **zone** symbol.
- 3.20.2 Prior to the removal of the Holding (H) symbol, the only permitted **uses** on the lands subject to the Holding (H) symbol shall be those **uses** legally **existing** at the date the Holding (H) symbol is applied.
- 3.20.3 Where a Holding (H) symbol is imposed on any land, the By-law which places the Holding (H) symbol on said lands shall set out the conditions to be satisfied to effect its removal.

3.22 HOME INDUSTRIES

- 3.22.1 A **home industry** shall employ not more than two (2) **persons** in addition to the owner residing on the **premises**, on a full-time basis.
- 3.22.2 On **lots** less than 0.4 hectares, the maximum **gross floor area** of a permitted **home industry** shall be 50% of the **gross floor area** of the **principal dwelling** on the **lot**.
- 3.22.3 On **lots** greater than 0.4 hectares, the maximum **gross floor area** of a **home industry** shall be 500.0 square metres.
- 3.22.4 A **home industry** shall be clearly secondary to the main **use** of the **lot** and shall not change the character of the **lot** or create or become a public nuisance, particularly in regard to noise, traffic, loading or unloading, odours, dust, fumes or parking.
- 3.22.5 An **accessory building** or **structure** used for the **home industry** shall be permitted in accordance with the provisions for **Accessory Buildings** and **Structures** in Section 3.3.
- 3.22.6 An **accessory building** or **structure** used for the **home industry** shall be permitted only in the required **rear yard** and shall be subject to the provisions for **Accessory Buildings** and **Structures** in Section 3.3.
- 3.22.7 Parking shall be provided in accordance with the **Parking Provisions** in Section 3.35.
- 3.22.8 Notwithstanding the requirements of Section 3.35, a maximum of one (1) **parking space** shall be provided for **commercial motor vehicle parking**.

3.23 HOME OCCUPATIONS

- 3.23.1 A **home occupation** shall not **alter** the residential character of the **dwelling** nor create or become a public nuisance, in particular, with regard to noise, noxious odours, and emissions of smoke, traffic or parking.

- 3.23.2 A **home occupation** must not interfere with television or radio reception.
- 3.23.3 **Outside storage** or outdoor display of goods and materials shall not be permitted in association with a **home occupation**.
- 3.23.4 **Uses** in association with a permitted **home occupation** shall not occupy more than 25% of the **gross floor area** of the **dwelling unit** containing the **home occupation** or 100.0 square metres, whichever is the lesser.
- 3.23.5 Parking shall be provided in accordance with the provisions of Section 3.35.
- 3.23.6 The **home occupation** must not require additional exterior construction features, equipment or machinery than is needed for the **dwelling unit** containing the **home occupation**, except for a required **parking area** in accordance with Section 3.35.
- 3.23.7 A maximum of four (4) employees who do not reside in the dwelling unit containing the home occupation for an office use which contains all business functions and materials associated for an office use within the dwelling unit except for the associated parking area in accordance with Section 3.35. All other home occupation uses shall contain a maximum of one (1) employee who does not reside in the dwelling unit containing the home occupation. (089-19)
- 3.23.8 The operator of the **home occupation** shall be a resident of the **dwelling unit** containing the **home occupation**.
- 3.23.9 In a Residential **Zone**, all on-site activities of a **home occupation**, other than parking, shall be confined to the associated **dwelling unit**, and shall not be undertaken within an attached or detached **garage**, or **accessory building** or **structure**.

3.24 LANDSCAPED STRIPS

In all commercial, industrial and institutional **zones**, a **landscaped strip** shall be provided and maintained in accordance with the following minimum requirements:

- a) A **landscaped strip** shall be required in any commercial, mixed **use**, industrial or institutional **zone** in any **yard**:
 - i) abutting a residential, community service or open space **zone**; and
 - ii) abutting a **street**.
- b) The **landscaped strip** shall have a minimum width of 3.0 metres.
- c) The **landscaped strip** shall be provided along the entire length of the **yard**.
- d) The **landscaped strip** required in this By-law shall be installed and maintained by the owner of the **lot** upon which the **landscaped open space** is required.

- e) **Landscaped strips** shall not be required or permitted where a **daylighting triangle** is required in accordance with Section 3.39.
- f) **Landscaped strips** may be included in the calculation for minimum required **landscaped open space**, as required by the **zone** regulations.
- g) Notwithstanding the requirements of Section 3.24, where **landscaped strip** requirements are identified in the **zone** regulations, the requirements of the **zone** regulations shall apply.

3.25 LEGALLY EXISTING, NON-COMPLYING LOTS, BUILDINGS AND STRUCTURES

Where a **building** or **structure** has been legally **erected** prior to the date of the passing of this By-law on a **lot** having less than the minimum frontage, depth or area or having less than the minimum **front yard**, **side yard** or **rear yard** or **lot coverage** required by this By-law, the said **building** or **structure** may be enlarged, repaired or renovated provided that:

- a) the enlargement, repair or renovation maintains or does not further reduce the established non-compliance or complies with the By-law requirement, and complies with all other **setback** and zone regulations of the applicable **zone**, except that this does not apply to prevent the **erection** of a perimeter foundation provided that the increase in the **height** of the **building** is not more than 1.02 metres;
- b) all other applicable provisions of this By-law are complied with; and
- c) where a **building** on a **lot** with frontage on Lake Simcoe having less than the minimum **waterfront yard** required by this By-law has been legally **erected** prior to the date of the passing of this By-law, said **building** or **structure** may be enlarged, reconstructed, repaired or renovated, provided that:
 - i) the enlargement, repair or renovation complies with the provisions of 3.25 a) – 3.25 b); and
 - ii) the footprint of the enlargement, repair or renovation does not result in an increase of more than 50% to the **existing building** footprint of the **principal building**.

3.26 LEGALLY EXISTING, NON-CONFORMING USES

The following applies to **uses** which are legally **existing** but are no longer permitted by this By-law:

- a) The provisions of this By-law shall not apply to prevent the **use** of any **lot**, **building** or **structure** for any purpose not permitted by this By-law, or the repair, strengthening or restoration to a safe condition of any legally **existing building** or **structure** that is damaged or destroyed by means beyond the control of the owner, if such **lot**, **building** or **structure** was lawfully used for such purpose on the day of passing of this By-law, so long as it continues to be used for that purpose and

provided that the repair or renovation does not further increase the building's **gross floor area**.

- b) The provisions of this By-law shall not apply to prevent the **erection** or **use** for a purpose not permitted by the By-law of any **building** or **structure** for which a permit has been issued under subsection 8(1) of the *Building Code Act*, 1992, prior to the day of the passing of the By-law, so long as the **building** or **structure** when **erected** is used and continues to be used for the purpose for which it was **erected** and provided the permit has not been revoked under the *Building Code Act*, 1992.

3.27 LOADING PROVISIONS

3.27.1 Where land, **buildings** or **structures** are used for any purposes involving the receiving, shipping, loading or unloading of animals, goods, wares, assembled or unassembled merchandise and/or raw materials, **loading spaces** shall be provided in accordance with the provisions of this section.

3.27.2 **Loading spaces** for **professional offices** and **medical offices** shall be required in accordance with the following:

	Gross Floor Area	Minimum Number of Required Loading Spaces
a)	Less than or equal to 2,350 square metres	0
b)	Greater than 2,350 square metres but less than or equal to 11,600 square metres	1
c)	Greater than 11,600 square metres	1 space plus 1 additional space for each 9,300 square metres of gross floor area or portion thereof

3.27.3 **Loading spaces** for other **commercial**, **institutional** and **industrial uses** shall be required in accordance with the following:

	Gross Floor Area	Minimum Number of Required Loading Spaces
a)	Less than or equal to 250 square metres	0
b)	Greater than 250 square metres but less than or equal to 2,350 square metres	1
c)	Greater than 2,350 square metres but less than or equal to 7,500 square metres	2

d)	Greater than 7,500 square metres but less than or equal to 14,000 square metres	3
e)	Greater than 14,000 square metres	3 loading spaces plus 1 additional loading space for each 9,300 square metres of gross floor area or portion thereof

3.27.4 A minimum of one **loading space** shall be required for an **apartment dwelling** or **mixed use building** containing a minimum of 30 **dwelling units**.

3.27.5 Required **loading spaces** shall be provided adjacent to the primary **use** or **building** and on the same **lot** as the primary **use** or **building**.

3.27.6 No **loading space** shall be located in the **front** or **exterior side yards** of any **zone**.

3.27.7 No **loading space** shall be located closer than 6.0 metres to any abutting Residential **Zone**.

3.27.8 No **loading space** or platform or overhead vehicular door shall be located in any **yard** or wall of any **building** or **structure**, which adjoins or faces a **street**, or Provincial Highway No. 400, or County Road 21, if such space is located within the Primary Visual Impact Area shown on Schedule "A".

3.27.9 A **loading space** shall have an unobstructed rectangular area with a minimum length of 9.0 metres and a minimum width of 3.6 metres, and shall have a minimum vertical clearance of 4.2 metres.

3.27.10 The loading requirements shall not apply to any **building** which legally **existed** on the date of passing of this By-law, so long as the floor area as it **existed** at that date is not increased or the **uses** changed. If an addition is made or the **use** is changed, the **loading spaces** must be provided up to the number required for the addition or for the new **use**.

3.27.11 The **driveways**, **aisles** and **loading spaces** for **marinas**, **golf courses** and **parks** shall be constructed and maintained with a stable surface which is treated to prevent the raising of dirt or loose particles. All **parking/loading spaces** and **driveways** and **aisles** for any other permitted **uses** shall require a cement or asphaltic binder or any other similar permanent type of surfacing.

3.27.12 Access to **loading spaces** shall be provided by a **driveway**, **aisle** or **lane** which is at least 6.0 metres wide and provides direct access to a **street**.

3.28 MEDICAL MARIJUANA PRODUCTION FACILITIES

Notwithstanding any other provisions in this **by-law** to the contrary, the following provisions shall apply to permit medical marijuana production facilities in the permitted **zones** specified in this **by-law** within the Town of Innisfil:

- a) A **medical marihuana production facility** shall comply with all provisions of the **zone** that it is located within.
- b) A **medical marihuana production facility** will be prohibited on a **lot** within a residential **zone** and on any **lot** containing a **dwelling**.
- c) A **medical marihuana production facility** shall be located at least 70 metres away from a **lot** in a Residential **Zone** or Community Service **Zone** and from any **lot** containing a **school, park, community centre, or day nursery**.
- d) No outdoor signage or advertising shall be permitted.
- e) **Parking spaces** and **loading spaces** must be provided in accordance with the Loading Provisions and Parking Provisions specified in this **by-law**. A **medical marihuana production facility** will be interpreted as an 'other industrial use' for the purposes of calculating the required number of **parking spaces** and **loading spaces**.
- f) Site Plan approval, in accordance with the Town of Innisfil Site Plan By-law, as amended, will be required prior to permitting any development and the use of a **lot** for the purposes of a **medical marihuana production facility**. Through the Site Plan approval process, the Town may require sustainable design features that reduce environmental and servicing impacts such as the use of recycled water and low impact development measures.
- g) Access to municipal water supply is preferred, however in the case of a private water supply, the Town will require justification that there is sufficient water for daily usage (Ministry of Environment water taking permit may be required) and adequate fire suppression.
- h) Access to municipal sanitary sewer is preferred, however in the case of a private septic system or other on-site disposal system, the Town will require confirmation that discharge from the facilities can be safely treated in a private septic system or alternative. If discharge or treatment of product requires off-site handling, the owner(s) will provide documentation of agreement(s) with approved waste handlers.

3.29 MINIMUM DISTANCE SEPARATION BETWEEN LIVESTOCK AGRICULTURAL USES AND OTHER LAND USES

- 3.29.1 New and expanded livestock facilities, manure storage facilities and anaerobic digesters are subject to the Minimum Distance Separation II (MDS II) requirements according to the Minimum Distance Separation (MDS) Formulae, as developed by the Ministry of Food, Agriculture and Rural Affairs, and administered by the Town of Innisfil.
- 3.29.2 The location of a new **dwelling** on a **lot** of less than 19 hectares in **lot area**, within the Agriculture (AG) **Zone**, is subject to Minimum Distance Separation I (MDS I) requirements according to the Minimum Distance Separation (MDS) Formulae, as developed by the Ministry of Food, Agriculture and Rural Affairs, and administered by the Town of Innisfil. An **existing dwelling** may be enlarged, replaced or

repaired provided that the enlargement, replacement or repair does not result in the **dwelling** being located closer to the **lot** on which the livestock facility is located.

3.29.3 A livestock facility may be replaced, enlarged or repaired, provided that:

- a) the enlargement, repair or replacement of the facility does not result in increases in the values of Factors A, B or D, of the MDS Formulae, as developed by the Ministry of Food, Agriculture and Rural Affairs and administered by the Town of Innisfil, compared to what **existed** at the livestock facility prior to the catastrophic event;
- b) there is no switch to a livestock type with a higher odour potential;
- c) there is no increase in the number of nutrient units housed; and
- d) there is no switch to a manure type system with a higher odour potential.
- e) MDS I is applied to a proposed lot with an existing dwelling when the dwelling is presently located on the same lot as the subject facility.

3.30 MODEL HOMES, DEMONSTRATION UNITS AND SALES PAVILLIONS

3.30.1 Notwithstanding any other provision of this By-law, where a **model home** or **demonstration unit** agreement has been executed between the Town and the owner, and where:

- a) appropriate **municipal services** are available or are at the boundary of a draft-approved plan of subdivision; or
- b) the required easements, agreements and securities are provided to facilitate servicing to the boundary of a draft approved plan of subdivision, one or more **model homes** or **demonstration units**, to a maximum of six (6) or 10% of the number of **lots** on the draft approved plan of subdivision, whichever is less, may be constructed within the boundaries of the draft approved plan of subdivision, subject to the following provisions:
 - i) the **model home** or **demonstration unit**, shall be in accordance with the applicable **zone** provisions in which it is to be located and shall comply with all other provisions of this By-law, as though the unit was constructed on the **lot** within the registered plan of subdivision;
 - ii) the **model home** or **demonstration unit**, shall be used for the purpose of a showing prospective buyers what the aesthetics and finishes of a typical home in the proposed subdivision may look like, and shall not be occupied or used as a **dwelling unit** prior to the date of registration of the plan of subdivision, obtaining any required **building permits**, certificate of occupancy, and the satisfaction of any terms and conditions of the subdivision agreement; and

- iii) the **model home** or **demonstration unit** shall comply with all applicable terms and conditions of the said **model home** or **demonstration unit** agreement.

3.30.2 The construction, **erection** and the temporary **use** of a **sales pavilion** for the temporary sales or a rental office which is incidental to construction on a **lot**, whether on or off-site requires a site-specific amendment to this By-law. A **sales pavilion** does not require permanent water and sanitary sewer connections,

however, temporary water and sanitary facilities are required to the satisfaction of the **Town**. The **sales pavilion** shall comply with all applicable terms and conditions of the said **sales pavilion** agreement.

3.30.3 A **sales pavilion** for the temporary sales or a rental office shall be permitted within any Commercial or Mixed Use **Zone**.

3.30.4 Notwithstanding any other regulations to the contrary, up to ten (10) model homes or demonstration units are permitted within Draft Plan of Subdivision I-T-1301 (Part of the South Half of Lot 21, Concession 8)

3.31 MOTOR VEHICLE SERVICE STATIONS

The following provisions shall apply to **motor vehicle service stations**, where permitted by this By-law:

- a) No fuel pump or related canopy may be **erected** in the **front** or **side yards** within 6.0 metres of any **street** or **lot line**.
- b) On a **corner lot**, no fuel pump may be **erected** within 9.0 metres of the intersection of the **front** and **side lot lines**.
- c) The minimum **lot frontage** for an **interior lot** shall be 30.0 metres.
- d) The minimum **lot frontage** for a **corner lot** shall be 40.0 metres.
- e) The distance between **driveways** providing access to a **lot** shall be a minimum of 9.0 metres, except that on a **corner lot**, no **driveway** shall be located closer than 9.0 metres of the intersection of the **street line**, subject to the **yard** requirements of the **zone**.
- f) Each **driveway** shall have a maximum width of 9.0 metres and the interior angle formed between the **lot line** and **centerline** of the **driveway** must be between seventy (70) and ninety (90) degrees.
- g) No **driveway** shall be located within 3.0 metres of a **side lot line**.

3.32 MULTIPLE USES ON A LOT

Where any **building**, **structure** or **lot** is used for more than one purpose in accordance with the **uses** permitted by this By-law, the **building**, **structure** or **lot** shall comply with

the provisions of this By-law applicable to each **use**. Where there is conflict, the more stringent provision shall apply.

3.33 NON-COMPLIANCE DUE TO EXPROPRIATION

3.33.1 No **existing structure, lot area, parking or landscaping** on a **lot** shall be deemed to be in contravention of the provisions of this By-law as a result of a **lot** or part of a **lot** being conveyed or having been conveyed to, or acquired by the **Town of Innisfil**, the County of Simcoe, the Province of Ontario, or the Government of Canada. (By-Law 031-17)

3.33.2 For the purposes of this By-law, when calculating **setbacks** and **lot coverage**, any road reserves of the **Town of Innisfil**, the County of Simcoe or the Province of Ontario shall be applied as though they were part of the lands on which the **setback** or **lot coverage** is being applied to.

3.34 OUTSIDE STORAGE

The following provisions shall apply to outside storage, where it is permitted as an **accessory use** by this by-law:

- a) The location and extent of **outside storage** shall be established in the site plan agreement which shall also establish appropriate buffering, **landscaping** and/or fencing to screen the **outside storage** from public view, especially where the **lot** abuts a residential, commercial, mixed **use**, open space or institutional **zone**.
- b) Notwithstanding clause a) above, no **outside storage** shall be permitted in the **front yard** or **exterior side yard** or in any **yard** which abuts a residential **zone**.
- c) No **outside storage** shall be located in the minimum required **side yard setback** or the minimum required **rear yard setback** of the **zone**.
- d) Any permitted **outside storage** area, or vehicular access thereto, involving storage, parking or outside display of goods and materials, shall be constructed and maintained with a stable surface of asphalt, cement, gravel or crushed stone with dust control, and drained in accordance with the requirements of the **Town of Innisfil** and the approved site plan agreement.
- e) Any areas used for permitted outside storage shall be in addition to, and separate from, such areas as may be required by this By-law for the provision of off-**street parking** or **loading spaces**.
- f) The following additional special zone regulations shall apply to all the lands within the Primary Visual Impact Area as shown on Schedule "A" of this By-law:
 - i) **Outside storage** shall not be permitted.
 - ii) Only **uses** conducted wholly within a **building** shall be permitted.
 - iii) **Loading spaces** shall not be permitted in any **yard** facing Highway 400 or County Road No. 21.
 - iii) A **parking area**, an outside display, or any combination of the two shall not

exceed fifty percent (50%) of the area of any **yard** facing Highway 400 or County Road No. 21, unless the **parking areas** are screened, with a fence or landscaping, in which case they may be increased to a maximum of seventy-five (75%) of the **yard**.

3.35 PARKING PROVISIONS

3.35.1.1 NUMBER OF REQUIRED PARKING SPACES

Where land, **buildings** or **structures** are used in accordance with this By-law, every owner shall provide and maintain off-street motor vehicle **parking areas** for the sole **use** of the owner, occupant or **persons** making **use** of the **premises** on the same **lot** in accordance with the requirements outlined for the respective **uses** as specified in the table below and in accordance with the other provisions contained in this Section.

	Use	Minimum Number of Parking Spaces
	<i>Residential Uses</i>	
a)	Single detached dwelling	2.0 parking spaces (1)
b)	Semi-detached dwelling or duplex dwelling	2.0 parking spaces (1)
c)	Townhouse dwelling (street, block/cluster, back-to-back, stacked)	2.0 parking spaces per dwelling unit. With the exception of street townhouse dwellings , 0.25 parking spaces shall be designated as visitor parking spaces (1)
d)	Apartment dwelling in any Mixed Use Zone or apartment dwelling unit in a mixed use building	1.5 parking spaces per dwelling unit, of which 0.25 parking spaces shall be designated as visitor parking spaces
e)	Apartment dwelling in any other zone	1.75 parking spaces per unit, of which 0.25 parking spaces shall be designated as visitor parking spaces
f)	Accessory dwelling unit	1 space
g)	Group home dwelling	1 parking space per 3 supervised group home residents that can be accommodated in the group home dwelling, in addition to the required parking spaces for the dwelling
h)	Home occupation	1 parking space for every 37 square metres of gross floor area devoted to the home occupation use to a maximum of 3 parking spaces provided on the same lot. Parking spaces for the home occupation shall be in addition to the parking spaces required for the dwelling unit.
	<i>Commercial and Office Uses (2)</i>	
i)	Banquet hall	1 parking space per 10 square metres of gross floor area

	Use	Minimum Number of Parking Spaces
j)	Bed and breakfast	1 parking space for each guest room, which shall be provided in addition to the parking spaces required for the single detached dwelling
k)	Day nursery	1 parking space per 30 square metres of gross floor area
l)	Funeral home	1 parking space for every four (4) persons to be accommodated in the design capacity of the buildings
m)	Golf course	5.5 parking spaces per hole, plus the parking spaces required for other accessory uses
n)	Hotel or motel	1 parking space for every guest room plus any parking spaces required for any accessory uses , such as a restaurant , in accordance with this By-law
o)	Marina	1 parking space for every boat slip plus any parking spaces required for any accessory uses , such as a restaurant , in accordance with this By-law
p)	Medical office	1 parking space for every 15 square metres of gross floor area
q)	Motor vehicle dealership	5 parking spaces or 1 parking space for every 23 square metres of gross floor area to a maximum of fifty spaces (excluding outdoor display and storage of vehicles), whichever is greater, plus four (4) parking spaces per repair bay
r)	Motor vehicle service station	1 parking space for every 23 square metres of gross floor area
s)	Motor vehicle repair garage, motor vehicle body shop	4 parking spaces per repair bay
t)	Personal service establishment	1 parking space for every 28 square metres of gross floor area
u)	Place of entertainment	3 parking spaces for each bowling lane and 1 parking space for every three seats in a theatre. For all other uses , 1 parking space shall be required for every 23 square metres of gross floor area
v)	Professional office	1 parking space for every 28 square metres of gross floor area on the first floor plus 1 parking space for every 37 square metres of gross floor area above the first floor
w)	Private club	1 parking space for every 4 persons that can be accommodated in the design capacity of the buildings
x)	Recreational vehicle sales establishment	1 parking space for every 50 square metres of gross floor area
y)	Restaurant	1 parking space for every 8 square metres of gross floor area which is accessible to patrons or 1 parking space for every 4 persons that can be accommodated in the design capacity of the building , whichever is greater
z)	Restaurant, take-out	1 parking space for every 6 square metres of gross

	Use	Minimum Number of Parking Spaces
		floor area which is accessible to patrons or 1 parking space for every 4 persons that can be accommodated in the design capacity of the building , whichever is greater
aa)	Retail store	1 parking space for every 19 square metres of gross floor area
ab)	Self storage units	1 parking space per 650 square metres of gross floor area , inclusive of all storage areas and accessory office uses
ac)	Tourist cabin establishment or tourist commercial establishment	1 parking space for each guest room, cabin or suite
ad)	Other commercial uses	1 parking space per 28 square metres of gross floor area
<i>Institutional and Open Space Uses</i>		
ae)	Community centre or indoor recreational centre	1 parking space for every 4 persons to be accommodated in the design capacity of the buildings
af)	Government facility, including emergency services	1 parking space for every 23 square metres of gross floor area
ag)	Long term care home or nursing home	1 parking space for every 2 beds
ah)	Place of worship	1 parking space for every 4 persons to be accommodated in the design capacity of the buildings
ai)	Retirement home	1 parking space for every room or suite
aj)	School	Elementary schools – 2.0 parking spaces for every teaching area or classroom Secondary schools – 6.0 parking spaces for every teaching area or classroom
<i>Offices and Industrial Uses</i>		
ak)	Accessory retail uses	1 parking space for every 19 square metres of gross floor area
al)	Research establishment	1 parking space for every 28 square metres of gross floor area on the first floor plus 1 parking space for every 37 square metres of gross floor area above the first floor
am)	Transport terminal	1 parking space for every 20 square metres of gross floor area , plus 1 parking space for every 150 square metres of gross floor area for the non-office component
an)	Warehouse	1 parking space for every 100 square metres of gross floor area up to 7,000 square metres, plus 0.6 parking spaces per 100 square metres of gross floor area over 7,000 square metres of gross floor area
ao)	Other industrial uses	1 parking space for every 37 square metres of gross

	Use	Minimum Number of Parking Spaces
		floor area up to 3,000 square metres, plus 1 parking space for each additional 100 square metres of gross floor area up to 6,000 square metres, and 1 parking space for each 200 square metres over 6,000 square metres
	Agricultural Uses	
ap)	Agricultural produce warehouse	1 parking space for every 37 square metres of gross floor area up to 3,000 square metres, plus 1 parking space for each additional 100 square metres of gross floor area up to 6,000 square metres, and 1 parking space for each 200 square metres over 6,000 square metres
aq)	Home industry	1 parking space for each additional employee in addition to the parking spaces required for the dwelling unit

Notes:

- (1) Required parking spaces may be provided in tandem parking, except for required visitor parking.
- (2) Refer to the MU1 and MU2 zone regulations in Section 5.2 for minimum parking space requirements for Commercial Uses in those zones.

3.35.2 PARKING SPACE AND PARKING AREA PROVISIONS

Parking spaces and parking areas shall be designed and maintained in accordance with the following requirements:

- a) Each parking space shall be readily accessible at all times and arranged in such a manner to provide access and maneuvering space for the parking and removal of a motor vehicle, except that this does not apply in the case of a single detached dwelling, semi-detached dwelling, modular home or street townhouse dwelling.
- b) Except in accordance with Section 3.35.3, the minimum width of parking spaces shall be 3.0 metres. The minimum length for parking spaces shall be 5.7 metres and increased to 6.0 metres where overhang cannot be accommodated.
- c) Ingress and egress to and from parking aisles must be provided by a sufficient number of adequate, unobstructed driveways having a minimum width of 6.0 metres or 4.0 metres for a one-way parking aisle.
- d) The minimum width of parking aisles shall be 6.0 metres wide for two-way traffic and 4.0 metres wide for one-way traffic. Where parking spaces are provided at an angle not exceeding 45 degrees measured at the aisle, the minimum width of a one-way parking aisle shall be 3.6 metres.
- e) Where a lot, building or structure accommodates more than one type of use, the parking space requirements shall be the sum of the requirements

for the separate parts of the **lot, building or structure** occupied by the separate types of **uses**.

- f) Where an addition is made to a **building** or the **use** is changed, then additional **parking spaces** must be provided up to the number required for the addition or change in **use**.
- g) For the purposes of calculating the total number of **parking spaces**, where the application of ratios results in a fraction of a **parking space**, the required number of **parking spaces** for each permitted **use** shall be increased to the next higher whole number.
- h) The lights used for illumination of **parking spaces, aisles and driveways** must be so arranged as to divert the light away from adjacent **lots and streets**.
- i) Where off-**street** parking for any **use** other than a **residential use** abuts a **side lot line** or **rear lot line** in a Residential **Zone**, a screen shall be **erected** or planted and maintained along the side or **rear lot line** and the screen shall have a minimum height of 1.5 metres and shall be suitable for provision of privacy and protection from vehicle headlights.
- j) No **parking or loading area** or part thereof may be located and no land may be used for the temporary parking or storage of any licensed vehicle within 1.0 metres of any **lot line** or **street line** or within 1.0 metres of the boundary of any Residential **Zone**; excluding **single detached dwelling units, semi-detached dwelling units, accessory second dwelling units, duplex dwelling** and **townhouse dwelling units**. (By-law 031-17)
- k) **Parking** is permitted in the approved **driveway** or dedicated **parking space** only, and all other areas in the **front yard, interior side yard, exterior side yard, and rear yard** shall be considered **landscaped open space**. In a Residential **Zone** the minimum **landscaped open space** required in the **front yard** or **exterior side yard** shall be 40%. (By-law 031-17)
- l) All off street **parking spaces, driveways and aisles** required herein for a single detached **dwelling** or **semi-detached dwelling**, marina, golf course or park, must be constructed and maintained with a stable surface which is treated to prevent the raising of dirt or loose particles. All off street **parking spaces, driveways and aisles** required for any other **use** must have a cement or asphaltic binder permanent pavers or any other permanent type of surfacing. Agricultural **uses** are exempt from this requirement. (By-law 031-17)

3.35.3 DESIGNATION OF ACCESSIBLE PARKING SPACES

- a) Accessible **parking spaces** shall be designated in accordance the following table:

	Total number of parking spaces required in accordance with Section 3.33.1	Number of accessible parking required to be designated
i)	1 to 25 parking spaces	Minimum of 1 parking space
ii)	26 to 50 parking spaces	Minimum of 2 parking spaces
iii)	51 to 100 parking spaces	Minimum of 3 parking spaces
iv)	100 + parking spaces	3% of the total number of required parking spaces

- b) The calculation of accessible **parking spaces** shall be included as part of the total calculation of **parking spaces** required for any **lot, building or use**.
- c) Accessible **parking spaces** shall not be required for **single detached dwellings, semi-detached dwellings, townhouse dwellings, duplex dwellings or modular homes**.
- d) **Parking spaces** required to be designated as accessible **parking spaces** shall have a minimum size of 3.0 metres by 5.7 metres plus a 1.5 metre access aisle for a single space configuration. A double space configuration shall consist of two **parking spaces** each having a minimum size of 3.0 metres by 5.7 metres plus a 1.5 metre wide access aisle separating the two **parking spaces**. Where overhang cannot be accommodated, the length of the **parking space** shall increase from 5.7 metres to 6.0 metres.

3.36 PLANNED WIDTH OF ROAD ALLOWANCE

3.36.1 Notwithstanding any other provisions of this By-law, no **building or structure** is to be **erected** in any **zone** closer than the sum of the **yard** requirements for that **zone** plus half of the ultimate planned **street** width measured from the **street centerline**, for those **streets** identified in the **Town of Innisfil Official Plan, Schedule C: Transportation Plan**, and to the satisfaction of the **Town**.

3.36.2 Notwithstanding anything to the contrary, the County of Simcoe shall be consulted with respect to the ultimate planned road width of County Roads.

3.36.3 All Ministry of Transportation permit requirements must be met where applicable.

3.37 REFRESHMENT TRAILERS (080-18)

- 3.37.1 A **refreshment trailer** shall be permitted in all Commercial, Mixed Use, Industrial, and Institutional zones as referenced in this by-law.
- 3.37.2 A **refreshment trailer** shall be in accordance with the setbacks for the **principal building** specifically indicated in the zone regulations as referenced in this by-law and shall not be permitted within any rear yard setback.
- 3.37.3 A maximum of ten (10) **refreshment trailers** shall be permitted within the corporate limits of the Town at any one time subject to the zone restrictions and regulations contained within this section.
- 3.37.4 A maximum of one (1) **refreshment trailer** shall be permitted per **lot**.
- 3.37.5 A maximum size of a **refreshment trailer** shall not exceed twenty square metres (20m²) in area.
- 3.37.6 A **refreshment trailer** shall not be included in **lot coverage** calculations.
- 3.37.7 A **refreshment trailer** shall not be located on any required **landscaped open space, landscape strip(s), landscaping**, and/or required **parking spaces/areas** for any other **use** located on the same **lot** as the **refreshment trailer**.
- 3.37.8 A maximum of ten (10) temporary seat(s) associated with the **refreshment trailer** may be provided. All temporary seat(s) must be removed when the **refreshment trailer** is not located on the **lot**.
- 3.37.9 A minimum of two (2) off **street parking spaces** shall be required for a **refreshment trailer** and be located on the same **lot**. The **parking spaces** must meet the parking provisions contained with the General Provisions section of this by-law.
- 3.37.10 A **refreshment trailer** may require a site plan or an amendment to a site plan agreement where applicable as regulated by the Site Plan Control By-law.

3.38 RAIL LINES AND SETBACKS FROM RAIL LINES

- 3.38.1 Permitted **uses** within **rail lines** shall include only those **uses** directly associated with the **rail line**.
- 3.38.2 No **dwelling** shall be **erected** closer than 30.0 metres from the property boundary of an **existing** or proposed **rail line** right-of-way.
- 3.38.3 Notwithstanding Section 3.38.2, where the **rear yard** of a **dwelling unit** abuts a **rail line** right-of-way, the required minimum **rear yard** shall be measured from the **rail line** right-of-way or toe of any berm associated with the **rail line**, whichever is greater.

3.39 DAYLIGHTING TRIANGLES

3.39.1 Notwithstanding any other provision of this By-law, a **daylighting triangle** shall be required on a **corner lot** at any at-grade intersection of two or more **streets** or of a **street** and a **rail line** right-of-way that is measured according to that set out below. The **street** classifications are set out in Schedule C: Transportation Plan of the Town's Official Plan.

Street Classification	Intersecting Street Classification	Minimum Daylighting Triangle (m)
Local	Local	3
	Collector (Minor & Major)	5
	Arterial	10
Collector (Minor & Arterial)	Local	5
	Collector (Minor & Major)	10
	Arterial	10
Arterial	Local	10
	Collector (Minor & Major)	10
	Arterial	15
County of Simcoe Arterial	All Streets	15
Rail line Right-of-way	All Streets	15

3.39.2 Within a **daylighting triangle**, no **buildings** or **structures** which would obstruct the vision of drivers of **motor vehicles** are to be **erected**, and no trees, signs, shrubs, hedges, fences or walls are to be planted, **erected** or maintained to a height greater than 1.0 metre above the **centerline** of the adjacent **street** at the lowest point.

3.40 SLEEPING CABINS

3.40.1 Notwithstanding any other provision of this By-law, a **sleeping cabin** shall only be permitted as an **accessory structure** on **lots zoned** with the "W" suffix.

3.40.2 Notwithstanding any other provision of this By-law, the required minimum **rear yard** of a **sleeping cabin** shall be equal to the required **rear yard setback** for the **principal dwelling**.

3.40.3 Notwithstanding any other provision of this By-law, the minimum **side yard setback** of a **sleeping cabin** shall be the same as the required **side yard setback** for the **principal dwelling**.

3.40.4 In addition to the above requirements, **sleeping cabins** shall also be subject to the other applicable provisions of Section 3.3.

3.41 STORAGE AND USE OF HAZARDOUS LIQUID OR LEACHABLE CHEMICALS

Hazardous liquid or leachable chemicals not classified as waste, including petrochemicals, shall be contained wholly within an enclosed **building** and shall be subject to the

approvals and regulations of the Ministry of Environment.

3.42 SWIMMING POOLS AND HOT TUBS

Notwithstanding any other provisions of this By-law, a **swimming pool** and a hot tub are permitted as **accessory structures** in any **zone**, provided that:

- a) A **swimming pool** or hot tub shall not be located closer to any **lot line** or **street line** than the minimum distance required for an **accessory building** located on the same **lot**.
- b) The maximum height of a **swimming pool** shall be 2.0 metres above **established grade**.
- c) Any **building** or **structure** required for changing clothes or for pumping or filtering facilities or other similar **accessory uses, buildings** and **structures** shall be permitted and shall be in accordance with applicable provisions for the **zone** and provisions for **accessory uses, buildings** and **structures**.

3.43 TEMPORARY SALES EVENT OR OCCASIONAL OR SPECIAL EVENT

3.43.1 A temporary sales event, including an outside **garage** sale or rummage sale, shall be permitted in all **zones** for a maximum of six (6) days within a calendar year.

3.43.2 An occasional or special event, whether or not for profit, shall be permitted in all **zones**. In any Residential **Zone**, occasional or special events shall only be permitted for a maximum of 4 days within a calendar year.

3.44 TEMPORARY STRUCTURES

3.44.1 A **temporary structure** shall be considered to be an **accessory structure** and shall be **erected** in accordance with the provisions of Section 3.3.

3.44.2 A **temporary structure** exceeding 20.0 square metres shall not be permitted in a Residential **Zone**, except where a permit has been issued by the **Town** to permit such a **structure**.

3.44.3 A **temporary structure** may be **erected** on a **lot**, as an **accessory structure** in a commercial or industrial **zone**, for a maximum of 150 days within a calendar year, exclusive of days associated with setup and take down of the **temporary structure**.

3.44.4 The provisions of Sections 3.44.1, 3.44.2 and 3.44.3 shall not apply to **temporary structures** associated with construction activities. The provisions of Section 3.47.4 shall apply to **temporary structures** associated with construction activities.

3.45 TEMPORARY TURNING CIRCLE

The minimum required **yards** and **lot area** requirements for lands forming part of a **temporary turning circle** shall be calculated as if the turning circle did not **exist**.

Notwithstanding the foregoing, the minimum **front yard setback** shall be 13.0 metres; however, in no case shall any **building** or **structure** be **erected** within 2.0 metres of the **temporary turning circle**.

3.46 TRANSCANADA PIPELINE

Notwithstanding any other provision of this By-law, no permanent **building** or **structure** shall be located within 7.0 metres of the pipeline right-of-way. **Accessory buildings** or **structures**, including **swimming pools**, **decks**, detached **garages**, sheds, and similar **structures**, shall have a minimum setback of 3.0 metres from the pipeline right-of-way.

3.47 USES PERMITTED IN ALL ZONES

3.47.1 The **Town of Innisfil** or the **County of Simcoe**, a utility operation providing a public utility service such as InnPower, InnServices, Innisfil Energy Services Ltd. or any local board thereof, as defined in the *Municipal Affairs Act*, any telecommunications company, any transportation system owned, operated or authorized by or for the **Town**, the Province of Ontario, or the Government of Canada, may for purposes of public service, **use** any land or **erect** or **use** any **building** or **structure** in any **zone**, provided that in any Residential **Zone**, the **building** or **structure** is in compliance with the **height**, coverage, **landscaped open space** and **yard** regulations prescribed for the **zone** and there is no outside storage in the **yards**. (By-Law 031-17).

3.47.2 Section 3.47.1 shall not apply to administrative offices, retail **uses**, sales outlets, **garages**, depots or **contractor's shops or yards** used in association with a telecommunications or cable company, unless such **uses** are specifically permitted by this By-law.

3.47.3 **Accessory buildings** and **structures** are permitted in all **zones**, provided that such **buildings** and **structures** occur in conjunction with the main permitted **use**, and they are in accordance with the **accessory building** and **structure** provisions of this By-law.

3.47.4 The construction, **erection** and the temporary **use** of a construction shed, scaffold or other **building** or **structure** which is incidental to construction on a **lot** where it is situated and is necessary for the work in progress and until the work is completed or abandoned, is permitted in all **zones**.

3.48 USES PROHIBITED IN ALL ZONES

3.48.1 No **use** is permitted which from its nature or materials used therein is declared by the Local Board of Health to be a noxious trade, business or manufacture under the *Health Protection and Promotion Act* or regulations thereunder, as amended.

3.48.2 The storage of inoperable **motor vehicles**, not including **motor vehicles** which are intended to be repaired in association with a **motor vehicle repair garage** or **motor vehicle body shop**, are prohibited.

3.49 WASTE DISPOSAL ASSESSMENT AREA OVERLAY

Lands located within the Waste Disposal Assessment Area as shown on Schedule "A", shall be used for no other purpose than those **uses** which legally **existed** prior to the passing of this By-law. The **uses** permitted within the underlying zone shall not be permitted until a ground and surface water study (hydrology and hydrogeology study) and methane gas migration study, and any other study as may be required by the **Town** and/or County, have been completed to the satisfaction of the **Town** and/or County to demonstrate that there will be no adverse public health and safety risks associated with the former waste disposal site(s), and to require that owner enter into a development agreement with the **Town** to implement the recommendations of the studies.

Notwithstanding the above, such studies shall not be required for the following:

- a) interior **alterations** to **existing structures**;
- b) exterior **alterations** that do not expand the footprint of an **existing structure**;
- c) new **structures** or **alterations** to **existing structures** where such **structures** do not prevent the free movement of air into the atmosphere; and
- d) any **structure** that does not require a **building permit**.

3.50 WASTE PROCESSING AND TRANSFER FACILITY

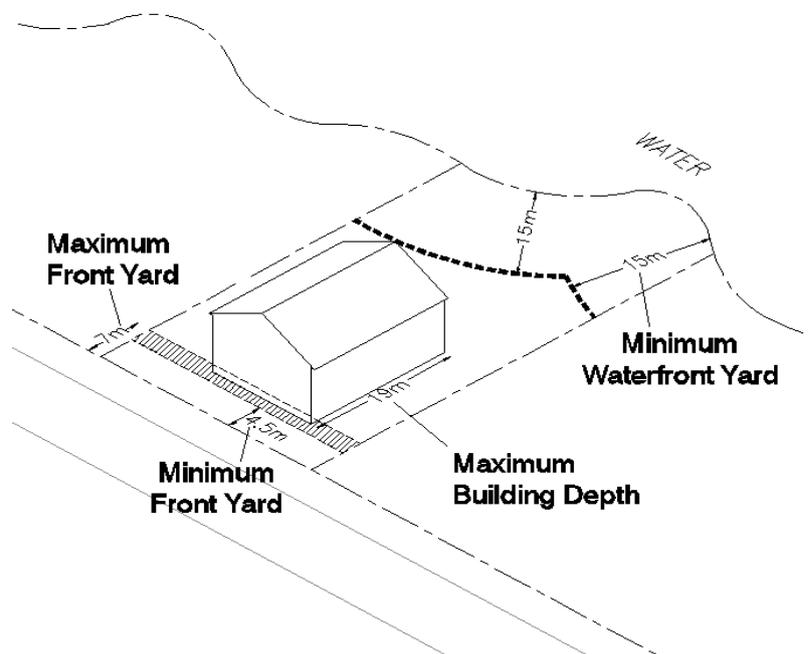
No portion of a **waste processing or transfer facility** shall be located within 800 metres of a Residential, Open Space or Mixed Use **Zone**, and a **waste processing or transfer facility** shall be in accordance with any requirements and approvals by the Ministry of the Environment.

3.51 WATERFRONT LOTS ("W" SUFFIX)

Where a "W" suffix is associated with a **zone** symbol, as shown on Schedule "A", the following additional provisions shall apply:

- a) Notwithstanding any other provision of this By-law, the minimum **front yard setback** shall be 4.5 metres.
- b) Notwithstanding any other provision of this By-law, the maximum **front yard setback** shall be 7.0 metres.
- c) Notwithstanding any other provision of this By-law, the **principal building** or **structure** on the **lot** shall not have a length greater than 19.0 metres.
- d) The minimum **waterfront yard setback** shall be 15.0 metres or the **existing waterfront yard setback**, whichever is greater.
- e) Where the **lot depth** exceeds 60.0 metres, clauses a) to d) above shall not apply, and the minimum **waterfront yard setback** from Lake Simcoe shall be 30.0 metres.

- f) A minimum of 50% of the **waterfront yard** shall be maintained as a **naturalized vegetation area**.
- g) Notwithstanding any other provision of this By-law, no **accessory building** shall be located in the **waterfront yard**, except for one **accessory building** directly related to shoreline recreational **use**, such as a **boathouse, sleeping cabin**, or a storage shed.



3.52 WAYSIDE PITS AND QUARRIES

3.52.1 Notwithstanding any other provision of this By-law, the **Town of Innisfil**, the County of Simcoe, the Ministry of Transportation of Ontario, or any agent of the foregoing may, for public road purposes, **use** any **lot** not **zoned** Residential, Community Service, Mixed **Use**, Open Space or Environmental Protection, for the extraction and processing of road **building** material for the construction of a public road, by means of **wayside pits or quarries**.

3.52.2 The Ministry of Transportation of Ontario excepted, no **person** shall **use** or permit to be used, any land for the purpose of a **wayside pit or quarry** unless prior written approval has been issued by the **Town**.

3.53 WELLHEAD PROTECTION AREA AND INTAKE PROTECTION ZONE

3.53.1 Notwithstanding any other provisions of this By-law, **agricultural uses** involving livestock shall be prohibited within 100 metres of a well, within a Wellhead Protection Area. This restricted area is delineated as “Wellhead Protection Area A”, and shown as an overlay on Schedule “A”.

3.53.2 Notwithstanding any other provisions of this By-law, the storage of the following materials shall be prohibited within a two (2) year time of travel **zone** of a Wellhead Protection Area, delineated as “Wellhead Protection Area B” and shown as an overlay on Schedule “A”:

- a) Animal manure;
- b) Petroleum fuels;
- c) Petroleum solvents and chlorinated solvents;
- d) Pesticides, herbicides and fungicides;
- e) Construction equipment;
- f) Inorganic fertilizers;
- g) Road salt; and
- h) Other contaminants listed in Schedule 3 (“Severely Toxic Contaminants”) to Ontario Regulation 347 of the Revised Regulations of Ontario, 1990, as may be updated and amended from time to time.

3.53.3 Notwithstanding any other provisions of this By-law, the storage of the following materials shall be prohibited within an Intake Protection Zone, as shown as IPZ on Schedule “A”:

- a) Animal manure;
- b) Petroleum fuels;
- c) Petroleum solvents and chlorinated solvents;
- d) Pesticides, herbicides and fungicides;
- e) Construction equipment;
- f) Inorganic fertilizers;
- g) Road salt; and
- h) Other contaminants listed in Schedule 3 (“Severely Toxic Contaminants”) to Ontario Regulation 347 of the Revised Regulations of Ontario, 1990, as may be updated and amended from time to time.

3.54 YARD ENCROACHMENTS

Except as otherwise provided in this By-law, every part of any required **yard** shall be open and unobstructed by any **building** or **structure** from the ground to the sky except for:

	Accessory Building, Structure or Feature	Permitted Encroachment into Minimum Required Yard Setback
a)	Sills, belt courses, chimneys, cornices, eaves, gutters, parapets, pilasters, bay windows or other ornamental features	i) 0.6 metres into any required minimum yard setback
b)	Drop awnings, clothes poles, garden trellises, TV or radio antennas, air conditioning units, rainwater tanks, or similar accessory structures	i) No restriction on encroachment into any required minimum yard setback
c)	Fire escape	i) 1.5 metres into required minimum rear yard setback ii) 1.5 metres into required interior side yard setback
d)	Fences, signs, parking areas , retaining walls, driveways , walkways, patios , decks no higher than 0.2 metres above the established grade , landscaped open space and other similar accessory structures and features	i) No restriction on encroachment into any required minimum yard setback
e)	Uncovered stairs and uncovered wheelchair ramps	i) No restriction on encroachment into any required minimum yard setback
f)	Decks higher than 0.2 metres above established grade	i) No closer than 1.2 metres from any interior lot line or rear lot line ii) No closer than 3.0 metres from any front lot line iii) No closer than 4.0 metres from any exterior lot line
g)	Unenclosed porches and verandahs having a landing area of not more than 5.0 square metres and a height of not more than 1.5 metres above established grade (By-Law 031-17)	i) 3.0 metres into any required front yard setback ii) 3.0 metres into any required rear yard setback iii) 1.2 metres into any required interior side yard setback or exterior side yard setback , but no closer than 0.6 metres from any lot line
h)	Other unenclosed porches/verandahs and balconies	i) 3.0 metres into any required front yard setback ii) 3.0 metres into any required rear yard setback iii) Maximum of 50% of the minimum required exterior side yard setback

3.54 YARD ENCROACHMENTS

Except as otherwise provided in this By-law, every part of any required **yard** shall be open and unobstructed by any **building** or **structure** from the ground to the sky except for:

	Accessory Building, Structure or Feature	Permitted Encroachment into Minimum Required Yard Setback
a)	Sills, belt courses, chimneys, cornices, eaves, gutters, parapets, pilasters, bay windows or other ornamental features	i) 0.6 metres into any required minimum yard setback
b)	Drop awnings, clothes poles, garden trellises, TV or radio antennas, air conditioning units, rainwater tanks, or similar accessory structures	i) No restriction on encroachment into any required minimum yard setback
c)	Fire escape	i) 1.5 metres into required minimum rear yard setback ii) 1.5 metres into required interior side yard setback
d)	Fences, signs, parking areas , retaining walls, driveways , walkways, patios , decks no higher than 0.2 metres above the established grade , landscaped open space and other similar accessory structures and features	i) No restriction on encroachment into any required minimum yard setback
e)	Uncovered stairs and uncovered wheelchair ramps	i) No restriction on encroachment into any required minimum yard setback
f)	Decks higher than 0.2 metres above established grade	i) No closer than 1.2 metres from any interior lot line or rear lot line ii) No closer than 3.0 metres from any front lot line iii) No closer than 4.0 metres from any exterior lot line
g)	Unenclosed porches and verandahs having a landing area of not more than 5.0 square metres and a height of not more than 1.5 metres above established grade (By-Law 031-17)	i) 3.0 metres into any required front yard setback ii) 3.0 metres into any required rear yard setback iii) 1.2 metres into any required interior side yard setback or exterior side yard setback , but no closer than 0.6 metres from any lot line
h)	Other unenclosed porches/verandahs and balconies	i) 3.0 metres into any required front yard setback ii) 3.0 metres into any required rear yard setback iii) Maximum of 50% of the minimum required exterior side yard setback

**SECTION 4
GENERAL PROVISIONS**

4.0 PERMITTED LOCATION

Accessory buildings and/or structures are permitted in the *yard* noted by the symbol ‘√’ in the column corresponding to the *Zone*. A number(s) following the symbol ‘√’, *Zone* heading, or Provisions heading indicates that one or more conditions apply to the *accessory use, building and/or structure* noted or, in some cases, to the entire *Zone*. Conditions are listed below the Section Table(s) as Footnotes.

4.1 ACCESSORY USES, BUILDINGS AND STRUCTURES

Where a *use* is permitted by a *Zone* designation in this By-law, any *use, building, and/or structure* that is *accessory* to such *use* is also permitted, subject to the provisions contained within this Section of the By-law, or unless elsewhere specified in this By-law.

Accessory buildings, structures and uses, are permitted in all *Zones* provided:

- i) The *principal use, building or structure* is specifically permitted by this by-law and is already established on the same *lot*;
- ii) The detached *accessory building or structure* is not used for human habitation or an occupation for gain, unless specifically permitted by this By-law;
- iii) A detached *accessory building or structure*, including any attached or detached *deck*, air conditioning unit and/or heat pump, shall not be situated on or over an easement;
- iv) Notwithstanding the foregoing, a *garden suite* is not permitted as of right within any *Zone*,
- v) Unless specifically permitted elsewhere in this By-law, *outdoor storage and garden center* uses shall not be permitted as an *accessory use* in any *Zone*; and,
- vi) Notwithstanding the above, and unless specifically required elsewhere in this By-law, *accessory retail uses* within a *principal building* in the EMP-2, M1 and M2 *Zones* are limited to 5% of the *Gross Floor Area* of the *principal use* to a maximum of 232.2 m².

4.2 REGULATIONS FOR ACCESSORY BUILDINGS AND STRUCTURES

4.2.1 Regulations for Accessory Buildings and Structures in the Residential and Future Development Zones

In addition to the requirements of Section 4.1, *buildings and structures accessory to a permitted use* in a Residential or Future Development Zone, excluding *detached garages, carports and decks*, are permitted subject to the following provisions:

TABLE 4A

PROVISIONS	Accessory Buildings and Structures			
	RLD	RMD1, RMD2, FD	RO	RHD
Location (Permitted)				
<i>Front Yard</i>				
<i>Interior Side Yard</i>	√	√	√	√
<i>Exterior Side Yard</i>				
<i>Rear Yard</i>	√	√	√	√
Setbacks (Minimum)				
<i>Front Lot Line</i>	N/A	N/A	N/A	N/A
<i>Interior Side Lot Line</i>	0.6m	0.6m	3.0m	3.0m
<i>Exterior Side Lot Line</i>	0.6m	0.6m	7.5m	7.5m
<i>Rear Lot Line</i>	0.6m	0.6m	3.0m	7.5m
Total Gross Floor Area (*1) (Maximum)	See Footnote (*2)	10m ²	25m ²	25m ²
Building Height (Maximum)	3.0m	3.0m	3.7 m	3.7m
Door Height (Maximum)	N/A	N/A	N/A	N/A

Footnote(s) for Table 4A

- (*1) Total *Gross Floor Area* shall include the aggregate *floor area* for all *accessory buildings and structures* on a *lot* excluding *detached garages and decks*.
- (*2) See Table 4A (I) for maximum Total *Gross Floor area*

Table 4A(I)

Lot Area	Total Gross Floor Area (*2)
Less than 660 m ²	12m ²
660 – 830 m ²	14m ²
Greater than 830 m ²	16m ²

4.2.2 Regulations for Attached and Detached Accessory Garages and Carports

In addition to the requirements of Section 4.1, *attached* and *detached garages* and *carports* are permitted as an *accessory use* in any Residential or Future Development Zone, provided it complies with the following *attached* and *detached garage* and *carport* regulations:

4.2.2.1 Regulations Common to Both Attached and Detached Garages and Carports

A *garage* or *carport* is permitted on any *lot* provided that:

- i) An *attached* or *detached garage* or *carport* is not already located on the *lot*;
- ii) The *attached* or *detached garage* or *carport* is directly accessible by a *residential driveway* that satisfies the requirements of Section 5.6.2;
- iii) In no case shall the outside of the *garage* door or front of the *carport* be located any closer than 5.5 m from the *front lot line* or 5.5m from the *exterior side lot line*, if the *driveway* accessing the *lot* crosses the *exterior side lot line*;
- iv) The *garage* door does not exceed 2.43m in *height* and must have a minimum *garage* door opening width of 2.4m, and;
- v) The minimum internal dimensions for an *attached* or *detached garage* or *carport* shall be in accordance with the following:

Garage Type	Minimum Required Internal Dimensions for Both <i>Attached</i> and <i>Detached Garages</i> and <i>Carports</i>
Single Car <i>Garage</i>	The minimum size of a <i>parking space</i> shall be 2.9m wide by 6.0m long by 2.1m high of which 2.9m wide by 5.3m long by 2.1m high shall be unobstructed area with the exception of one <i>stair</i> ;
Double Car <i>Garage</i> or Larger with a Single Car Door	The minimum size of a <i>parking space</i> shall be 2.9m wide by 6.0m long by 2.1m high of which 2.9m wide by 5.3m long by 2.1 m high shall be unobstructed area with the exception of one <i>stair</i> ;
Double Car <i>Garage</i> or Larger with Double Car Door	The minimum size of a <i>parking space</i> shall be 5.5m wide by 6.0m long by 2.1m high of which 2.9m wide by 5.3m long by 2.1m high shall be unobstructed area with the exception of one <i>stair</i> .

4.2.2.2 Regulations for *Detached Garages and Carports*

- i) In addition to the regulations set out in Section 4.2.2.1, a *detached garage or carport* is permitted on a *lot* in accordance with the following requirements:

Requirements Common to Both <i>Street Access</i> and <i>Lane Access Detached Garages and Carports</i>
<ul style="list-style-type: none"> a) it is located in the <i>interior side yard</i> or <i>rear yard</i> of the <i>lot</i> only; b) it is located no closer than 0.6 m from an <i>interior side lot line</i>, unless it is attached to a <i>detached garage or carport</i> on an <i>abutting lot</i>; c) it is located no closer to the <i>exterior side lot line</i> than permitted for the <i>principal building</i>; d) it does not exceed a <i>height</i> of 4.3 m; and, e) The <i>gross floor area</i> of the <i>detached garage or carport</i> does not exceed 10% of the <i>lot area</i>

- ii) In addition to the requirements set out in subsection i), *street access detached garages and carports* shall also comply with the following requirements:

Requirements Specific to <i>Street Access Detached Garages and Carports</i>
<ul style="list-style-type: none"> a) it is located no closer than 0.6 m from the <i>rear lot line</i>, if the <i>garage or carport</i> is accessed by a <i>residential driveway</i> crossing either the <i>front lot line</i> or an <i>exterior side lot line</i>; and, b) it is located no closer than 1.2m from the <i>principal building</i> on a <i>lot</i>;

- iii) In addition to the requirements set out in subsection i), *lane access detached garages and carports* shall also comply with the following requirements:

Requirements Specific to <i>Lane Access Detached Garages and Carports</i>
<ul style="list-style-type: none"> a) it is located no closer than 5.5 m from the <i>principal building</i> on a <i>lot</i>; b) it is located no closer than 1.0 m from the <i>rear lot line</i> if the <i>lot</i> is accessed by a <i>residential driveway</i> from a <i>lane</i> crossing the <i>rear lot line</i>; c) it is located no closer than 0.6 m from the <i>rear lot line</i> if the <i>garage or carport</i> is accessed by a <i>residential driveway</i> crossing either the <i>front lot line</i> or <i>exterior side lot line</i>; and, d) The required outside <i>parking spaces</i> on a <i>lot</i> accessed by a <i>residential driveway</i> from a <i>lane</i> are: <ul style="list-style-type: none"> i) located parallel to each other, whether in or outside of a <i>detached garage or carport</i>, and, ii) shall be located no farther than 6.0 m from the <i>rear lot line</i>.

4.2.3 Regulations for Accessory Buildings and Structures in the Non-Residential Zones

- i) In addition to the requirements of Section 4.1, *accessory buildings* and *structures* are permitted in all non-residential *Zones*, excluding the Natural Heritage, Open Space and Future Development *Zones*, subject to the following:

TABLE 4B

PROVISIONS	<i>Accessory Buildings and Structures</i>	
Location (Permitted)	<i>Front Yard</i>	
	<i>Interior Side Yard</i>	√
	<i>Exterior Side Yard</i>	
	<i>Rear Yard</i>	√
Setbacks (Minimum)	<i>Front Lot Line</i>	N/A
	<i>Interior Side Lot Line</i>	3.0m (*1)
	<i>Exterior Side Lot Line</i>	In accordance with the required <i>exterior side yard setbacks</i> for the <i>zone</i>
	<i>Rear Lot Line</i>	3.0m (*1)
Building Height (Maximum)	5.5m	
Floor Area (Maximum)	93m ²	

Footnote(s) for Table 4B

(*1) Notwithstanding the above requirements, where a *lot line* abuts a residential *Zone*, *setbacks* shall be provided in accordance with *principal use*.

- ii) Notwithstanding the above requirements, *buildings* and *structures* greater than 93m² are permitted in the I-B, M1 and M2 *Zones* only, and shall be subject to all of the *Zone* standards for the *principal use* but shall not include any parking and loading provisions contained within this By-law; and;
- iii) Within any non-residential *Zone*, a detached gatehouse of a maximum size of 9.3m² with a maximum *height* of 3.0m is permitted in the *front yard*, and in any required *landscape buffer* provided it is located no closer than 3.0m from any *street line* and 0.6m from any other *lot line*.

4.2.4 Regulations for Accessory Buildings and Structures in the Natural Heritage and Open Space Zones

- i) In addition to the requirements of Section 4.1, residential and non-residential *accessory buildings* and *structures*, including *detached garages* and *carports* are permitted on any *lot* in the Natural Heritage System and Open Space *Zones* in accordance with the following:

TABLE 4C

PROVISIONS	Accessory Buildings and Structures			
	NHS	OS	OS-2	GC
	Natural Heritage Zone (*1)	Open Space	Storm Water Management	Golf Course
Location (Permitted)				
<i>Front Yard</i>		√	√	√
<i>Interior Side Yard</i>		√	√	√
<i>Exterior Side Yard</i>		√	√	√
<i>Rear Yard</i>		√	√	√
Setbacks (Minimum)				
<i>Front Lot Line</i>	N/A	6.0m	0.0m	25.0m
<i>Interior Side Lot Line</i>	N/A	12.0m	0.0m	25.0m
<i>Exterior Side Lot Line</i>	N/A	6.0m	0.0m	25.0m
<i>Rear Lot Line</i>	N/A	12.0m	0.0m	25.0m
Building Height (Maximum)	N/A	5.5m	N/A	5.5m
Floor Area (Maximum)	N/A	93m ²	N/A	93m ²

Footnote(s) for Table 4C

(*1) Accessory buildings and structures are not permitted in a Natural Heritage System Zones unless otherwise specified in Section 2.5 of this By-law.

- ii) No more than two accessory buildings are permitted on a lot that has a lot area less than 0.8 hectares; and,
- iii) Notwithstanding the above requirements, buildings and structures greater than 93m² are permitted in the OS Zone and shall be subject to all of the Zone standards for the principal use but shall not include any parking and loading provisions contained within this By-law

4.3 DECKS

4.3.1 Regulations for Decks in the Residential and Future Development Zones (113-2017)

Decks are permitted accessory to a residential use, in a Residential Zone or Future Development Zone, provided they are not constructed on or over any easement in favour of the Town of Milton, in accordance with the following:

i) **TABLE 4D**

PROVISIONS	DECK	
	ZONES	
	RLD, RMD1, RMD2, FD	
	Up to 1.2 m above grade	Greater than 1.2m above grade
Location (Permitted)		
<i>Front Yard</i>		
<i>Interior Side Yard</i>	√	
<i>Exterior Side Yard</i>	√	
<i>Rear Yard</i>	√	√
Setbacks (Minimum)		
Front Lot Line	N/A	N/A
Interior Side Lot Line	0.6m(*1)	See Footnote (*2)
Exterior Side Lot Line	0.6m	See Footnote (*2)
Rear Lot Line	3.0m	3.0m (*3)

Footnote(s) for Table 4D

- (*1) Notwithstanding the above, in the case of a *semi-detached dwelling* or *townhouse dwelling*, a 0.0m *setback* shall be permitted.
- (*2) The *deck* shall be located no closer to an *exterior* and *interior side lot line* than the *principal building*.
- (*3) A *deck* may project no more than 4.0m into the *rear yard* from the wall of the *principal building* closest to the *rear lot line*, excluding any *bay / boxed windows* or chimney breast projections.

- ii) The platform of a *deck* permitted in accordance with the above, shall in no case be higher than the floor of the *first storey*.

4.3.2 Regulations for Decks in the Non-Residential Zones

Decks are permitted *accessory* to a non-residential *use* in any *yard* of a non-residential *zone*, excluding the Natural Heritage and Future Development *Zones*, provided such *deck* maintains the minimum *yard* requirements of the *Zone* and is located outside of any required *landscape buffer*, required *parking space(s)*, and *access driveways*.

4.4 PORCHES AND VERANDAS

Porches / verandas may be permitted *accessory* to a residential *use* in accordance with the following:

- i) *Porches / verandas*, including any *stairs*, are permitted in any *yard*; and,
- ii) Unless otherwise specified by this By-law, *porches / verandas* shall comply with the setback requirements for the principal use or, where applicable, the *encroachment* provisions contained within this By-law.

4.5 BALCONIES

Balconies may be permitted *accessory* to a residential use in accordance with the following:

- i) For all *dwelling* types, excluding *apartment buildings*, *balconies* are permitted in the *rear yard*, *exterior side yard*, and *front yard*;
- ii) Notwithstanding the above, *balconies* are permitted in all yards for *apartment buildings* only, and;
- iii) Unless otherwise specified by this By-law, *balconies* shall comply with the *setback* requirements for the *principal use* or, where applicable, the encroachment provisions contained within this By-law.

4.6 HEATING, VENTILATION AND AIR CONDITIONING EQUIPMENT (HVAC) (38-2019)

4.6.1 Regulations for Ground Level HVAC

- i) Ground level HVAC and emergency generators are permitted *accessory* to a *residential use* in the Residential Zones, excluding the RHD and RO Zones, and in the Future Development Zone in accordance with the following:

TABLE 4E

PROVISIONS	Air Conditioning and Heat Pumps
Location (Permitted)	
<i>Front Yard</i>	
<i>Interior Side Yard</i>	√
<i>Exterior Side Yard</i>	
<i>Rear Yard</i>	√
Setbacks (Minimum)	
<i>Front Lot Line</i>	N/A
<i>Interior Side Lot Line</i>	0.6m
<i>Exterior Side Lot Line</i>	1.2m
<i>Rear Lot Line</i>	0.6m

- ii) Ground level H.V.A.C. equipment and emergency generators shall be permitted on any *lot* in a non-residential, RHD, or RO Zone, provided that such units are *setback* a minimum of 3.0m from any *lot line* and are screened from the *street* and any *abutting* residential zone.

4.6.2 Regulations for Roof-mounted HVAC

Roof-mounted H.V.A.C. equipment shall be permitted on any *lot*, and with the exception of the M2 Zone, shall be screened from any *public street* and from any *abutting* residential zone.

4.7 SWIMMING POOLS

Notwithstanding any other provisions of this By-law, an outdoor *swimming pool* may be permitted *accessory* to a residential use in any zone provided it complies with the following:

- i) Such *swimming pool* shall be located in an *interior side yard* or *rear yard* only;
- ii) Any *swimming pool*, jacuzzi, hot tub, or associated water circulating, heating or treatment equipment shall be *setback* 1.2m from any *side* or *rear lot line*;
- iii) Notwithstanding subsection ii) to the contrary, water circulating, heating or treatment equipment associated with a *swimming pool* where contained in an enclosed, *detached accessory building* shall be subject to the *accessory building* and *structure setbacks* contained in this By-law;
- iv) Notwithstanding any other provision contained in this By-law, any detached *deck* associated with an above-ground *swimming pool* shall be subject to the following provisions:

Deck Height above Grade	Detached Deck Regulations for Above Grade Swimming Pools
Over 0.6m (60cm) to 1.2m	Detached <i>decks</i> associated with any above <i>grade swimming pool</i> , including <i>stairs</i> or <i>landings</i> , shall be permitted in an <i>interior side yard</i> and <i>rear yard</i> , provided the <i>deck</i> is <i>setback</i> a minimum 1.2 m from any <i>interior</i> or <i>exterior side lot line</i> and a minimum 3.0 m from a <i>rear lot line</i> ;
Over 1.2m	Detached <i>decks</i> associated with any above <i>grade swimming pool</i> , including any <i>stairs</i> or <i>landings</i> , shall be permitted in the <i>rear yard</i> only, and shall be <i>setback</i> a minimum 1.2m from any <i>interior</i> or <i>exterior side lot line</i> and a minimum 3.0 m from a <i>rear lot line</i> ; and
0.6 m (60cm) or less	Detached <i>decks</i> associated with any above <i>grade swimming pool</i> shall be permitted in an <i>interior side yard</i> and <i>rear yard</i> , and shall not be subject to <i>setback</i> requirements.

- v) *Swimming pools* and associated water circulating, heating or treatment equipment shall be enclosed by a *fence* in accordance with the Town of Milton Pool *Fence Enclosure* By-law, as may be amended from time to time.

4.8 FENCING

4.8.1 Regulations for Fences in Residential Zones

Fences and walls are permitted in any residential *Zone* subject to the following:

- i) Within an *exterior side yard*, *interior side yard* or *rear yard*, the maximum fence *height* shall be 2.0m;

- ii) Notwithstanding i) above, *fencing* around the perimeter of a *deck* is permitted to a maximum *height* of 1.5m from the *decks* platform and to a maximum 60% of the perimeter of the *deck* including the wall of the house,
- iii) Within a *front yard*, the maximum *fence height* shall be no higher than 1.0m except that where a *front yard* adjoins the *rear yard* of a *corner lot* the maximum *fence height* along the common property boundary may be no higher than 2.0m;
- iv) *Fence height* shall be measured vertically from *grade*, exclusive of any artificial embankment, to the highest point of each 3.0m section of *fence*, excluding decorative post caps, and mechanical devices directly associated with the opening and closing of a gate, and;
- v) Where the *grade* elevations along the *fence* vary, maximum *fence height* may increase to 2.3m provided that the lowest *height* of the same 3.0m *fence* section does not exceed 2.0m in *height*;
- vi) *Fencing* for the purpose of enclosing a tennis court is permitted to a maximum *height* of 3.0m;
- vii) Where a *lot line* of a residential *Zone* *abuts* a *lot line* of a non-residential *Zone*, the permitted *fence height* may be increased to the non-residential *fence height* for such mutual *lot line*, and;
- viii) Noise barriers and *fencing* required by a *public authority* shall not be subject to the provisions of this By-law.

4.8.2 Regulations for Fences in Non-Residential Zones

Fences are permitted in all non-residential *Zones*, including Natural Heritage *Zones* and Future Development *Zones* in accordance with the following:

- i) *Fences* shall have a maximum *height* of 3.0m, with the exception of *fencing* necessary for the development and safety of playing fields, where no *height* restrictions apply; and,
- ii) Notwithstanding the above, *fencing* required by a *public authority* shall not be subject to the provisions of this By-Law;

4.9 SATELLITE DISHES

Satellite dish antennae are permitted in any *Zone* provided that:

- i) it does not exceed a diameter of 1.3m; and,
- ii) it is attached to the *principal building*.

4.10 ACCESSORY DWELLING UNITS (113-2017)

An *accessory dwelling unit* is permitted in a single *detached dwelling* or a *semi-link dwelling* only, provided that:

- i) Only 1 *accessory dwelling unit* shall be permitted per *lot* and shall be located within the main *dwelling unit*;
- ii) A minimum of 1 *parking space* per *accessory dwelling unit* is provided in addition to the required parking for the main *dwelling unit*;
- iii) The *dwelling* must be on full municipal water and wastewater services; and,
- iv) The *accessory dwelling unit* shall not exceed a maximum size of 85m².

4.11 HOME OCCUPATIONS (113-2017)

Where a *home occupation* is permitted, the following provisions apply:

- i) The following uses shall be permitted as a home occupation. Uses marked with an asterisk (*), shall be subject to approval from the Halton Region Health Department:
 - a) Music, art, tutoring or fitness instruction
 - b) Office Use
 - c) Pet Grooming
 - d) Baking or Catering, provided that the use can be conducted within the existing kitchen (*)
 - e) Personal Service Shop (*)
- ii) Only one (1) Home Occupation shall be permitted in a dwelling unit.
- iii) Only the resident(s) of the *dwelling unit* is/are engaged in the business and working from the *dwelling unit*;
- iv) The *use* is restricted to the *dwelling unit* and is not conducted in whole or in part in any *accessory building*;
- v) The *use* is clearly secondary to the residential *use* and does not change the residential character of the *dwelling* and *lot*;
- vi) No more than 25% of the *gross floor area* or 30 m² of the *dwelling unit*, whichever is lesser, is used for the purpose of the *home occupation*;
- vii) *Outdoor storage* or *outdoor retail display* of merchandise, material or equipment is prohibited;
- viii) There is no sale of retail goods from the premises;
- ix) There is no external advertising other than a sign erected in accordance with the Town of Milton Sign By-law;

- x) Material or equipment for use in the *dwelling* unit for conducting the *home occupation* may be stored in an *existing garage* or shed, providing such *garage* or shed is completely enclosed and is located on the lot from which the *home occupation* is being conducted, and further, such storage of materials and equipment shall not occupy or utilize any required *parking spaces*;
- xi) No equipment or process shall be used which creates or becomes a public nuisance in regard to noise, odour, fumes, vibration, glare, traffic or parking nor shall it cause electrical interference or interference with telephone, television, radio or satellite equipment reception; and,
- xii) Home occupations that have customers, clients or patients attending the dwelling, shall provide one (1) off-street parking space in addition to the required parking for the residential use;
- xiii) The dwelling unit associated with the home occupation must be the principal private residence (not an occasional or casual residence) of the resident operating the home occupation;
- xiv) No more than one (1) client or customer shall be serviced at any one time; and,
- xv) Notwithstanding anything to the contrary, the following uses shall be prohibited as a home occupation:
 - a) Motor Vehicle Body Shop
 - b) Motor Vehicle Dealership
 - c) Motor Vehicle Rental Agency
 - d) Motor Vehicle Repair Garage
 - e) Motor Vehicle Washing Establishment
 - f) Body Rub Parlour
 - g) Medical Clinic
 - h) Place of Worship
 - i) Kennel.

4.12 GROUP HOMES

Where a *Group Home* is permitted, the following provisions shall apply:

- i) *Group Home Type 1, Group Home Type 2 and Correctional Group Homes* shall only be permitted in a *detached dwelling*;
- ii) *Group homes* shall be permitted in accordance with the following:

TABLE 4F

Type	Number of Residents Permitted (exclusive of staff or receiving family)	Permitted Zones
<i>Group Home Type 1</i>	6 – 8 residents	RLD, RMD1,
<i>Group Home Type 2</i>	3 – 8 residents	RLD, RMD1,
<i>Correctional Group Home</i>	3 – 10 residents	I-B

- iii) No *Group Home Type 1* or *Group Home Type 2* shall be located closer than 500m to any other *Group Home Type 1* or *Group Home Type 2* ; and,
- iv) A *Group Home Type 2* shall only be located on a *lot* having *frontage* on a Major Arterial Road, Arterial or Collector Road.

4.13 COTTAGE INDUSTRIES AND HOME INDUSTRIES

Where a *cottage industry* or *home industry* is permitted, the following provisions apply:

- i) The *cottage industry* or *home industry* shall be clearly secondary and *accessory* to the *principal use* on the same *lot*;
- ii) The *gross floor area* shall not exceed a maximum of 93m²;
- iii) It is located on a *lot* that has a minimum *lot area* of 4.0 hectares;
- iv) An *accessory building* and any associated *activity area* (including the parking of commercial vehicles for a *home industry*) used for the *cottage industry* or *home industry* shall be located no closer than 30.0m from any *lot line*;
- v) *Outdoor storage* of goods or materials related to a *home industry* is permitted in the *rear yard* and *interior side yards* only, provided that the *area* occupied by such *outdoor storage* of goods or materials does not exceed 25% of the *gross floor area* of the *home industry*;
- vi) Only the sale of goods that are primarily manufactured, processed, fabricated, or produced on the *premises* is permitted;
- vii) Not more than 1 employee, in addition to residents of the *dwelling*, are engaged in the business;
- viii) There is no external advertising other than a sign erected in accordance with the Town of Milton Sign By-law; and,
- ix) No more than two commercial *motor vehicles* engaged in the *home industry* are permitted to be parked on the *lot*.

4.14 WASTE STORAGE AREAS

4.14.1 Regulations for Waste Storage Areas in the Residential Zones (052-2018)

- i) *Waste Storage Areas*, including *recycling facilities* are permitted only in the RHD, RO, and MU Zones as an *accessory use* to a permitted residential *use* provided they are contained within the main *building*, and;
- ii) Notwithstanding subsection i) above, *waste storage areas* may be permitted in the RMD1 Zone or RMD2 Zone, or outside of a main building in the MU Zone, RHD Zone or RO Zone provided the *waste* is contained within a deep collection waste disposal system, in accordance with the provisions of Section 4.14.2 v).

4.14.2 Regulations for Waste Storage Areas in the Non-Residential Zones

Waste storage areas, including *recycling facilities* are required in all non-residential Zones excluding the Natural Heritage Zones subject to the following:

- i) *Waste storage* shall be contained within a *principal building* or within a *detached accessory building or structure*;
- ii) Where *waste storage* is contained within a *principal building* a central *waste storage* location may be permitted provided each unit has unrestricted access to the centralized *waste storage* location;
- iii) Notwithstanding Section 4.2.3, where a *waste storage area* is located within a *detached accessory building or structure*, it shall comply with the following provisions:

TABLE 4G (38-2019)

PROVISIONS	<i>Detached Accessory Waste Storage Buildings and Structures</i>
Location (Permitted)	Permitted in any yard with the exception of the front yard and exterior side yard
Setbacks (Minimum)	
<i>Front Lot Line</i>	(*1)
<i>Interior Side Lot Line</i>	3.0m (*2)
<i>Exterior Side Lot Line</i>	3.0m
<i>Rear Lot Line</i>	3.0m (*2)
Building Height (Maximum)	3.0m
Floor Area (Maximum)	20m²

Footnote(s) for Table 4G

(*1) Minimum *setback* from the intersection of any *front lot line* and *exterior side lot line* is 30m.
 (*2) Notwithstanding the above, where a *lot line abuts* a residential zone the *building* shall be *setback* a minimum of 7.5m.

- iv) Food waste associated with a *restaurant* or *food store use* shall be stored in an enclosed refrigerated *facility*, including portable refrigeration units, or a deep collection waste disposal system where permitted by this By-law;
- v) Notwithstanding Subsection i) and iii) waste produced by a principal permitted *use* may be stored outside of a main *building* or *accessory building / structure* in any non-residential *Zone*, provided the waste is contained within a deep collection waste disposal system, comprised of a sealed container with a lockable lid located primarily below *grade*, on the same *lot* the *use* is intended to serve and complies with the following:
 - a) Deep collection waste disposal container(s) shall be permitted in any yard with the exception of a front yard and exterior side yard;
 - b) Deep collection waste disposal container(s) shall be located no closer than 1.5 m from a rear or interior side lot line;
 - c) Notwithstanding the above, deep collection waste disposal containers located in a rear or interior side yard abutting a Residential Use or Zone shall be setback a minimum 3.0m from the mutual lot line;
 - d) Deep collection waste disposal container(s) shall be located no closer than 0.30 m from a building or parking area; and,
- vi) Only waste storage facilities contained within a principal *building* or within an *accessory building* or *structure* must be accessible to service vehicles by a *driveway* having a minimum width of 3.5 m.

4.15 GARDEN CENTRES

A *Garden Centre* shall be permitted *accessory* to a *Retail Store 2*, a *Retail Store 3*, a *Food Store*, a *Contractors Yard*, a *Building Supply Store* and a *Warehouse Membership Club* in accordance with the following:

- i) Where a *Garden Centre* is located within a free-standing, single-unit *accessory building* or *structure*, the maximum permitted size shall be 2000 m², and the maximum permitted *height* shall be 5.5 m;
- ii) Where a *Garden Centre* is located outside of a *building* or *structure*, the maximum permitted land area for the *use* shall be 2000 m²;
- iii) In any *Zone*, excluding the Major Commercial *Zone*, the maximum combined area of any land, *building*, or *structure* for a *Garden Centre Use* shall be 2000 m² per *lot*;
- iv) Notwithstanding i), ii) and iii) above, where located adjacent to, and forming part of a *building* containing a permitted principal *use*, a *Garden Centre* may exceed 2000 m² provided it complies with all the *Zone* Standards of the applicable *Zone*, including the *parking* and *loading* provisions of this By-law;

- v) A *Garden Centre Use* shall not be located within any *required yard*, *required parking space*, *loading space*, *required landscaping*, and *day lighting triangle*;
- vi) Notwithstanding any provision to the contrary, within an *M2 Zone*, *Garden Centres* shall only be permitted within a free-standing, single-unit *accessory building or structure*; and,
- vii) A *Garden Centre Use* shall be located no closer than 15.0 m from a *Residential Zone* boundary.

4.16 OUTDOOR RETAIL DISPLAY

An *outdoor retail display area* accessory to a permitted *retail use* or *equipment sales and rental use* is permitted in any non-residential *Zone* provided:

- i) The *outdoor display area* shall be located outside of any *building or structure* and outside of any *required yard*;
- ii) The *outdoor retail display area* does not obstruct pedestrian and vehicular traffic;
- iii) The area shall be located outside of any *required parking and/or loading areas* or any *required landscaped open space*; and,
- v) The area shall be located no closer than 15.0m to a *Residential Zone*.

4.17 SHIPPING CONTAINERS

Unless otherwise specified by this By-Law *shipping containers* shall only be permitted in a *M2 Zone* and shall be provided in accordance with the following:

- i) *Shipping containers* shall only be permitted as an *accessory use* to a permitted non-residential *use* on a *lot* where a *principal building* exists;
- ii) Unless stated elsewhere in this By-law, *shipping containers* are only permitted for *accessory storage* purposes, based on *lot area* at a rate of one (1) *shipping container* per 0.4ha or part thereof to a maximum of four (4). In no case is a *shipping container* permitted on a *lot* having an area of less than 0.4ha;
- iii) In no case shall a *shipping container* exceed a *height* of 3m and a total length of 16.76m;
- iv) A *shipping container* shall only be located in the *rear yard* and shall be located no closer than 30m from any *street line*;
- v) A *shipping container* shall be screened from view from the *street* and *abutting* properties zoned *Residential*, *Institutional*, or *Natural Heritage*;
- vi) Unless elsewhere stated in this By-law a *shipping container* shall not be located in a *required parking area* and in no case shall encroach into a *required landscape buffer*;

- vii) A *shipping container* shall not be placed for the purpose of display or advertising, and;
- viii) Notwithstanding any other provision to the contrary, a *shipping container* shall not be used for the purpose of a *commercial storage facility*.

4.18 RESTAURANT PATIOS

A *Restaurant Patio* is permitted in any non-residential *Zone* subject to the following:

- i) The *Restaurant Patio* is permitted as an *accessory use* to a permitted *Restaurant* located within a *principal building*;
- ii) *Restaurant Patios* shall be permitted in any *yard*;
- iii) In the case of a roof-top *Restaurant Patio*, it shall be located directly above the permitted *Restaurant*;
- iv) A *Restaurant Patio* shall not be permitted in any *yard abutting* a residential *Zone*, or in the case of a roof-top patio / terrace it shall not be located on *lands abutting* a residential *Zone*;
- v) A *Restaurant Patio* shall be located a minimum 1.0m from any *street line* and 1.5m from any other *lot line*;
- vi) The *Restaurant Patio* shall be located a minimum of 1.2m from any *parking area*;
- vii) The *Restaurant Patio* shall not be fully enclosed; and,
- viii) Notwithstanding any requirements to the contrary, a *restaurant patio* may encroach into a *Landscape Buffer*, with exception of a *landscape buffer abutting* a *Natural Heritage System Zone* or a Residential *Zone*, but at no time shall the occupied area be included in *landscape open space* calculations.

4.19 SPECIAL BUILDING AND STRUCTURE PROVISIONS

Notwithstanding any other provision of the By-Law, the following special *building* and *structure* provisions shall apply:

4.19.1 Pre-requisites to Erecting, Using or Occupying a *Building* or *Structure* (38-2019)

- i) Notwithstanding any other provision in this By-law, no *building* or *structure* shall be erected on a *lot* that does not have *frontage* on a *public street* or on a *private street* as described in a registered Plan of Condominium.
- ii) No *building* or *structure* may be erected, used or occupied unless:

- a) connection to the municipal water and wastewater systems has been approved by Halton Region where such services are required by the Ontario Building Code; or, where municipal service is not available, receipt of confirmation from Halton Region's Medical Officer of Health of a potable water supply and from the Town's Chief Building Official of private sewage disposal system in accordance with the Ontario Building Code have been received, and;
- b) the municipal urban *street* standard of base course asphalt is provided adjacent to the *frontage* of the *lot* and connecting the *lot* to an assumed municipal *street*; or
- (c) for *lots* serviced by a *private street* or *lane* and deemed to a be a *public street* or *lane* that existed on August 8, 2005 the *existing street* standard is provided adjacent to the *frontage* of the *lot* or connecting the *lot* to an assumed municipal *street*; or
- (d) for *lots* of record that existed on August 8, 2005, not meeting the requirements of (i) and (ii) above, the *existing municipal street* standard is provided adjacent to the *frontage* of the *lot* or connecting the *lot* to an assumed municipal *street*; and;
- iii) Any planned public storm water management facilities are constructed and operational to service the *lot*, and;
- iv) All planned public underground services required to be installed pursuant to i) and ii) are constructed and operational to service the *lot*, and;
- v) Notwithstanding iii) and iv) above, partial *building* permits as described in the "Building By-law" may be issued, and;
- vi) Notwithstanding i), ii), iii), and iv) above, permits for temporary *uses* as described in 4.20.2 may be issued.

4.19.2 Dwelling Units (052-2018)

A maximum of one residential *building* is permitted on a *lot*, or on a parcel of tied land in a Common Element condominium or on a unit in a condominium in accordance with the Condominium Act, for the following:

- a. a *detached dwelling*;
- b. a *duplex dwelling*;
- c. a *semi-detached dwelling*;
- d. a *townhouse dwelling*, including a *deck-townhouse dwelling*;
- e. a *back-to-back townhouse dwelling*; and,
- f. a *live work unit*.

4.19.3 Non-Complying *Buildings* and *Structures*

4.19.3.1 Repair or Strengthening

A *non-complying building* or *structure* that was legally established prior to the passing of this By-law may be repaired or strengthened provided that the repair or strengthening:

- i) does not further encroach into any *yard*;
- ii) does not increase the amount of *floor area* or volume in any *yard*;
- iii) does not in any other way increase a situation of non-compliance, and;
- iv) complies with all other applicable provisions of this By-law.

4.19.3.2 Acquisition by a Public Authority (38-2019)

- a) No existing lot, building or structure shall be deemed to have come into contravention with any regulations or provisions of this By-law by reason that any part or parts of the lot has or have been conveyed to or acquired by any public authority.

This provision shall not apply where the conveyance of any part or parts of the lot to any public authority is required as a condition of an approval required for the creation of a lot, or where the construction of a new building or structure or addition to a building would further increase the extent or degree of non-conformity.

- b) Where subsection (a) above applies and a new building or structure is proposed:
 - i) Lot area, lot depth, lot frontage and lot coverage shall be calculated using the original lands conveyed to or acquired by the public authority; and,
 - ii) All other regulations shall be calculated using the remaining lands not conveyed to or acquired by the public authority.

4.19.4 Exceptions to *Height* Requirements (113-2017)

The *height* regulations contained in this By-law shall not apply to the following structures or features:

- i) any *utility buildings* or *structures*, air conditioner duct, ventilation stacks, barn, silo, church spire, church belfry, ornamental domes and features, cupola, clock tower, towers and steeples, chimney, elevator penthouse, film or audio tower, flag pole, water storage tank, radio or television antennae or tower, *wind turbine*, windmill, or any similar *structure*;
- ii) Mechanical features, such as *structures* containing the equipment necessary to control an elevator, are permitted to project a maximum of 6.0 m above the highest point of the *roof* surface, regardless of the *height* of the *building*;
- iii) Mechanical floors / penthouses provided they are setback a minimum of 3.0 metres from the exterior walls of the floor beneath it;

- iv) In a Residential Zone, the maximum height of a radio or television tower antenna shall be 13.0m measured from the uppermost point of the tower or antenna to the *established grade* of the ground on which the *structure* is located; and,
- v) Structures or features that are similar to those listed above.

4.19.5 Encroachments into Required Yards (052-2018)

Every part of a *required yard* shall be unobstructed except where in accordance with the following provisions:

- i) The following obstructions may project a maximum distance into a required *setback* as follows:

TABLE 4H

Structure	Required Setbacks	Maximum Distance
<p><i>Balconies</i></p> <p>For all dwelling types, excluding Apartment Buildings, Mixed Use Buildings, and Stacked Townhouses with a common underground parking area</p> <p>For Apartment Buildings, Mixed Use Buildings and Stacked Townhouses with a Common Underground Parking Area</p>	<p><i>Front setback, Exterior Side Setback, Rear Setback</i></p> <p><i>Front Setback, Interior Side Setback, Exterior Side Setback, Rear Setback</i></p>	<p>1.5m into a required yard, and where located on top of a porch / veranda shall be provided in accordance with the encroachments for porches / verandas</p> <p>1.5m into a required yard, and where located on top of a porch / veranda shall be provided in accordance with the encroachments for porches / verandas</p>
<i>Boxed / Bay Windows</i>	<i>Exterior Side Setback, Front Setback or Rear Setback</i>	0.6m out and 3.0m wide
Chimneys	<i>Rear Setback, Exterior Side Setback or interior side Setback (in accordance with provision ii below)</i>	0.45m
Eaves & Gutters	<i>Front Setback, Rear Setback, Interior Side Setback or Exterior Side Setback</i>	0.45m provided that the eaves and gutters are 2.0m above grade
Ornamental Projections	<i>Front Setback, Rear Setback, Interior Side Setback or Exterior Side Setback</i>	0.15m provided that the ornamental projection is 2.0m above grade

Structure	Required Setbacks	Maximum Distance
Permanent Window Awnings	<i>Front Setback, Rear Setback or Exterior Side Setback</i>	1.0m out provided that the awnings are 2.0m above <i>grade</i>
<i>Porches / Verandas</i>	<i>Front Setback, Interior Side Setback, Exterior Side Setback, Rear Setback</i>	Shall encroach no closer than 3.0 m to a <i>rear lot line</i> and 1.0m to any other <i>lot line</i>
Retractable-Drop Canopies & Awnings	<i>Rear Setback</i>	To the extent permitted for a <i>deck</i> between 0.6m - 1.2m in <i>height</i>
<i>Stairs and Landings, Above Grade Accessing A Principal Building</i>	<i>Front Setback, Rear Setback or Exterior Side Setback</i>	<i>Stairs</i> shall be located a minimum of 1.0m from the property line, measured to the first riser, with no part of the landing any closer than 1.5m from the property line.
<i>Stairs, Below Grade Accessing A Principal Building</i>	<i>Rear Setback</i>	No Maximum
Underground Cold Cellars	<i>Front Setback, Rear Setback or Exterior Side Setback</i>	Cold <i>cellars</i> are permitted to encroach as far as the <i>porch / veranda</i> as detailed in Table 4H.
Wheel Chair or Accessible Ramp	<i>Front Setback, Rear Setback or Exterior Side Setback</i>	Within 1.0m of any <i>lot line</i>

- ii) Unless specifically stated above, no encroachment, with the exception of eaves and gutters, shall be permitted within any *side yard* having a width of less than 1.2m.

4.19.6 Daylighting

Daylighting triangles or *daylighting radii* shall be required in accordance with the following provisions:

- i) For the purposes of determining *lot frontage, lot depth* and *lot area* only, for a *corner lot* with corner *daylight radii* or *daylight triangle*, the *daylight radii* or *daylight triangle* is deemed not to exist;
- ii) Notwithstanding any other provision of this By-law, no encroachment shall be permitted in a *daylight triangle* or *radius* above *grade* including but not limited to *buildings* or *structures, fencing, stairs, and plantings*; and,

- iii) The size of the required *daylighting triangle* or *daylighting radius* shall be in accordance with the following:

TABLE 4I

DAYLIGHTING TYPE	CONDITION (Street Type / Street Type)	DAYLIGHTING REQUIREMENTS (m – measurement type)
Street	<i>Laneway / Local</i>	5m – Radius
	<i>Local / Local</i>	5m – Radius
	<i>Local / Collector</i>	7m – Radius
	<i>Local / Arterial</i>	7m – Radius
	<i>Collector / Collector</i>	10m – Radius
	<i>Collector / Arterial</i>	10m – Triangle
	<i>Arterial / Arterial or Major Arterial or Highway</i>	10m – Triangle
Railway	Mainline track crossings with signal lights and/or gates	The <i>railway daylighting triangle</i> shall be 8.0m (minimum) from track along <i>street line</i> , and 275m from <i>street line</i> along track
	Mainline track crossings without signals and/or gates	The <i>railway daylighting triangle</i> shall be 85m from track along <i>street line</i> , and 75m from <i>street line</i> along track
	Spurline track crossings with signals and/or gates	The <i>railway daylighting triangle</i> shall be 8.0m (minimum) from track along <i>street line</i> , and 75m from <i>street line</i> along track.
	Spurline track crossings without signals and/or gates	The <i>railway daylighting triangle</i> shall be 85m from track along <i>street line</i> , and 75m from <i>street line</i> along track.

4.20 SPECIAL USE PROVISIONS

Notwithstanding any other provision of this By-law, the following special *use* provisions shall apply:

4.20.1 Non-Conforming Uses

No land, *building* or *structure* shall be *used* except in conformity with the provisions of this By-law unless such *use* legally existed prior to the date of passing of this By-law and provided that it continues to be *used* uninterrupted for such purpose, and that such *use*, when originally established, was not contrary to a By-law passed under Section 34 of the Planning Act, R.S.O 1990, cP. 13 or a predecessor thereof that was in force at that time.

4.20.2 Temporary Uses

Temporary *uses* are permitted in accordance with the following:

4.20.2.1 Temporary Sales / Customer Service Offices

- i) A temporary *building* or *trailer* for conducting sales of new *dwelling units* is permitted in any *Zone* provided the sales *building* or *trailer* is located within a development site. The sales *building* or *trailer* shall be *setback* 30m from the *lot line* of any existing residential *use* and *parking areas* associated with the sales *building* or *trailer* shall be *setback* 6m from any existing residential *use* abutting the development site, and;
- ii) Notwithstanding the provisions of Section 5.1, *parking areas* for temporary sales and customer service *offices* may have a granular surface.

4.20.2.2 Temporary Construction Office or Building Equipment

- i) A temporary construction camp and/or *office*, tool shed, scaffold or other such *building* or other such temporary facility which is incidental to construction and provided it is located on the site where such work is underway and provided that it shall be removed from the site within 60 days of completing the work, and;
- ii) Notwithstanding the provisions of Section 5.1, *parking areas* for temporary construction *offices* may have a granular surface.

4.20.2.3 Model Homes

Where a *model home* is erected, constructed and/or used for the purpose of temporary sales, or an example of a *dwelling* type for sale, more than one *model home* is permitted on a *lot* in a draft-approved plan of subdivision.

4.20.2.4 Portable Asphalt Plants

A *portable asphalt plant* is permitted in any *Zone* with the exception of a Natural Heritage *Zone*, and shall be dismantled at the completion of the construction project.

4.20.2.5 Temporary Wayside Pit or Wayside Quarry

A *wayside pit* or *wayside quarry* is permitted in any *Zone* with the exception of the Natural Heritage *Zone* and in no case shall a *wayside pit* or *wayside quarry* be located closer than 150m to a *dwelling unit* on another *lot*.

4.20.2.6 Temporary Sales and Entertainment Events

Temporary Sales and Entertainment Events shall be permitted in all Commercial *Zones* and in the Employment *Zone* only, in accordance with the Town of Milton Licensing By-law.

4.20.2.7 Temporary Shipping Containers

- i) Notwithstanding any other provision of this By-law, a *shipping container* is permitted in the driveway of a residential property for the purpose of the temporary *loading* or unloading of household items during the process of moving and for a period not exceeding five (5) days provided it does not exceed a maximum *height* of 3.0 m and a maximum length of 6.1m. However, in no case shall a *shipping container* encroach onto a public sidewalk; be located closer than 0.3 m from the back of curb in situations where no sidewalk exists; or, create a site line obstruction; and,
- ii) Notwithstanding any other provision of this By-law, a *shipping container* is permitted on a construction site in any *Zone* being developed on a stand alone basis or under a plan of subdivision for the purposes of temporary storage of equipment and materials incidental to construction only, and subject to the following restrictions:
 - a) shall not exceed a *height* of 3.0m and a length of 16.76m;
 - b) not to exceed six (6) in number;
 - c) shall be removed from the site within 60 days of completing the work;

4.20.3 Clothing Donation Boxes

A clothing donation box for a bona fide non-profit charitable organization may be located in a commercial *zone* provided that:

- i) The donation box shall not be located in a required landscape buffer or required parking or loading space;
- ii) The donation box shall not exceed 4.0 sq. m in area or 2.15 m in *height* above *grade*;
- iii) The donation box shall not obstruct a pedestrian walkway, and;
- iv) The donation box shall not create a visual obstruction for a *driveway* entrance or exit.

4.20.4 Public Uses

- i) The provisions of this By-law shall not apply to prevent the *use* of any land, *building* or *structure* by any *public authority* provided such *use, building* or *structure* complies with one of the following:
 - a) Such *use, building* or *structure* complies with all provisions of the applicable *Zone* in which it is located, or;
 - b) *Lots* less than 3.0ha shall comply with all the provisions of the I-A (Institutional Minor) *Zone*, excluding minimum height and *lot frontage* requirements; and,
 - c) *Lots* 3.0ha or greater shall comply with all the provisions of the I-B (Institutional Major) *Zone*, excluding the minimum *lot frontage* requirement.
- ii) Notwithstanding the above, a publicly funded elementary *School* or *Emergency Service Facility* on any I-A zoned *lot* less than 4.0ha in area shall comply with the I-A *Zone* provisions contained in this By-law, excluding the maximum *height* and minimum *lot frontage* requirements;
- iii) Notwithstanding any provision to the contrary, any *use* is permitted in any *Zone* by a *public authority*, in partnership with, or on behalf of a public authority excluding the Natural Heritage System *Zone* unless the applicable *Conservation Authority* has deemed the *use* or development appropriate;
- iv) Such *use, building* or *structure* shall comply with all the provisions of Section 4 and 5 of this By-Law;
- v) Notwithstanding Subsection iv), *buildings* and *structures* which are *used* for the storage of road maintenance materials within a public works *yard* owned by a *public authority* are exempt from the *height* requirements of this By-law,
- vi) *Accessory Outdoor Storage* may be permitted, except where the property abuts a Residential *Zone*; and;
- vii) Nothing in this By-law shall prevent a *public authority* from providing or using land as a street nor prevent the installation of a utility main including a water main, sanitary sewer, storm sewer, gas main, pipeline or overhead or underground hydro, telecommunications or other *utility* supply or communication line.

4.20.5 Utilities

- i) Notwithstanding any other provision of this By-law, facilities for the supply of utilities or servicing infrastructure are permitted in any *yard* and within any *zone* in accordance with the following:

TABLE 4J

Utility Buildings or Structures		
Zone	Location	
	<i>Floor Area</i> Less than 10m ²	<i>Floor Area</i> 10m ² or greater (*1)
Residential <i>Zones</i>	Permitted anywhere on a <i>lot</i>	Shall be <i>setback</i> a minimum 1.2m from any <i>lot line</i>
Non-Residential <i>Zones</i> , excluding the Natural Heritage System <i>Zone</i>	Permitted anywhere on a <i>lot</i>	Shall be <i>setback</i> a minimum 2.5m from any <i>lot line</i>

Footnote to TABLE 4J
 (*1) No maximum *floor area* shall apply to any utility *building* or *structure*.

- ii) Notwithstanding the above noted provisions, all above ground *structures* that have an *area* of 10 m² or greater shall not be located in an NHS Zone.
- iii) *Buildings* or *structures* for the provisions of utilities shall be exempt from the *parking* and *loading* requirements contained in this By-law. In no case however, shall existing spaces be removed or otherwise occupied.

4.20.6 Trail Corridors

Notwithstanding the *uses* or provisions contained within this By-law, trail corridors established through any Plan approved by the Town, *Conservation Authority*, the Region of Halton, or the Niagara Escarpment Commission shall be permitted in any *Zone* and may include shelters, signage, hard surface pathways and lighting.

4.21 SPECIAL LOT PROVISIONS

Notwithstanding any other provision of this By-Law, the following special *lot* provisions shall apply:

4.21.1 Non-Complying Lots

4.21.1.1 Non-complying Lots

A *lot* in existence prior to the effective date of this By-law, or capable of being legally conveyed in accordance with the Planning Act, that does not meet the *lot area*, *lot depth* and/or *lot frontage* requirements of the applicable *Zone*, may be used and *buildings* thereon may be erected, enlarged, repaired or renovated provided the *use* conforms with the By-law and the *buildings* or *structure* comply with all of the other provisions of this By-law.

4.21.1.2 Non-compliance as a Result of Expropriation

Where, as a result of the acquisition of part of a *lot* by a *public authority*, the *lot*, after the acquisition, is a *non-complying lot*, such *non-complying lot* may be used for any purpose permitted by this By-law within the *Zone* in which the *lot* is located.

4.21.2 Multiple Zones on One Lot

Where a *lot* is divided into more than one *Zone*, each portion of the *lot* shall be used in accordance with the provisions of this By-law for the applicable *Zone*.

4.21.3 Through Lots

Where a *lot*, which is not a *corner lot*, abuts a *street line* on more than one side, the minimum *front yard setback* of the *Zone* shall apply to all street lines and *lot* depth requirements of the *Zone* shall apply.

4.21.4 Landscaped Open Space and Landscape Buffers

Where *landscaped open space* and/or a *landscape buffer* is required, the following provisions shall apply:

- i) Notwithstanding any other provision of this By-law, a *driveway* or other access including a private rail spur line is permitted to extend through the *landscaped open space* and *landscape buffers* for the width of such required *driveway* or other access;
- ii) Notwithstanding the minimum *landscaped open space* requirements to the contrary, where development proceeds on the basis of individual development envelopes on a portion of the *Zone* or *lot*, the minimum *landscaped open space* required may be calculated on the basis of the area of each individual development envelope rather than on the basis of the *area* of the entire *lot*; and,
- iii) Notwithstanding any other provision of this By-law, *landscaped buffers* requirements shall be provided outside of any easement or *setback* required by the Ministry of Transportation (MTO).

4.22 SPECIAL SETBACKS

Notwithstanding any other provisions in this By-law, the following special *setbacks* shall apply:

4.22.1 Setbacks from a Natural Gas Distribution System

Notwithstanding all other provisions and standards of this By-law, no permanent *building* or *structure* may be located within 7.0 metres of any natural gas transmission pipeline right-of-way. *Accessory structures* shall have a minimum *setback* of at least 3.0 metres from the limit of the right-of-way. No *building* or *structure* is permitted within 3 metres of the right-of-way..

4.22.2 Setbacks from a Provincial Highway Right-of-Way

All *lands, buildings and structures* located within a controlled Provincial Highway Right-of-way *area* as determined by the Ministry of Transportation of Ontario (MTO) shall be subject to all regulations of the MTO under the authority of the Transportation and Highway Improvement Act, and any other applicable Act, and where required shall obtain a *building and land use* permit for the *use, erection, construction, or alteration* of any land, *building or structure*.

4.22.3 Setbacks from a Railway Right-of-Way

- i) No portion of any *building or structure* containing residential, commercial, institutional, employment and business park *uses* shall be located closer than 30m from any railway right-of-way;
- ii) Notwithstanding the above provisions, railway right-of-way *setbacks* shall not apply to industrial spur lines not owned by the railway, and;
- iii) No portion of any *building or structure* containing *industrial uses* and *warehouse/distribution uses* shall be located closer than 15m to a railway right-of-way.

4.22.4 Setbacks from an MX Zone

- i) New residential land *uses* shall be located no closer than 500m from an MX Zone;
- ii) Notwithstanding the above, the *setback* does not apply to *lots* that existed on October 20, 2003.

4.23 DOG DAYCARES (38-2019)

Where a dog daycare is permitted, the following provisions apply:

- i) The dog daycare shall not be permitted in a residential mixed use building.
- ii) Outdoor play areas shall not be permitted adjacent to a residential zone.
- iii) Accessory grooming and retail shall be limited to 5% of the gross floor area.
- iv) Waste shall be contained within an enclosed structure.

Section 4: General Provisions

4.1 Uses Permitted in All Zones

The uses identified in this subsection are permitted in all zones.

4.1.1 Accessory Uses

Unless otherwise specified, *accessory uses*, as defined as *Uses, Accessory* are permitted in all zones. Where another section of the By-Law specifically restricts or does not permit an identified accessory use, that section shall supersede this section.

4.1.2 Accessory Buildings and Structures

Accessory buildings, structures and uses are permitted in all zones subject to the following provisions:

- i) *The principle use, building or structure must already be established on the same lot.*
- ii) *No detached accessory building or structure may be used for human habitation or an occupation for gain, unless specifically permitted by this By-Law.*
- iii) *Unless otherwise specified, accessory buildings, structures and detached garages shall comply with the following requirements.*
- iv) *Accessory buildings and structures are not permitted additional encroachment under Section 4.2 for structure or ornamental features.*

Permitted feature or structure	Measure	Requirement
Detached garage in a residential zone	Location	Comply with all applicable yard requirements of the zone in which they are located
	Height	Lesser of 4.6m or the height of the main building on the lot
Residential accessory structures (RAS)	Location and height	In accordance with Section 4.2
Accessory buildings or structures	Total lot coverage	Residential zones: Lesser of 15% of the total lot area or 75% of the ground floor area of the main building on the lot
		All other zones: 15% of the lot area

Permitted feature or structure	Measure	Requirement
	Height	Residential, UC, and C zones: Lesser of 4.6m or the height of the main building on the lot
		All other zones: The maximum permitted height of the zone in which the accessory structure is located
	Corner lot location	Commercial or Employment Zone abutting any Residential Zone: Distance equal to the minimum required front yard of the abutting residential zone

- v) Notwithstanding Section 4.1.2 (iii) above, accessory structures in a residential zone shall be setback from the lot line in accordance with the requirements of Section 4.2 of this By-Law.
- vi) The total *lot coverage* of all *Accessory Buildings and Structures* on a *lot* shall be as follows:

Zone	Maximum Total Lot Coverage for Accessory Structures
Residential Zones	the lesser of 15% of the total <i>lot area</i> or 75% of the ground floor
All Other Zones	15% of the <i>lot area</i>

- vii) The maximum *height* of an *accessory building or structure* shall be as follows:

Zone	Maximum Height of Accessory Structures
Residential, Downtown, Urban Centre and Commercial Zones	the lesser of 4.6 metres or the <i>height</i> of the <i>main building</i> on the <i>lot</i>
All Other Zones	the maximum permitted <i>height</i> of the zone in which the <i>accessory structure</i> is located

- viii) Notwithstanding any other provision of this By-Law, the setback for *accessory buildings or structures* on a *corner lot* shall be as follows:

Zones	Applicable Yards	Minimum Required Setback
Residential Zones	Rear Yard or Exterior Side Yard	4.5 metres from flanking street line
Commercial or Employment Zone Abutting any Residential Zone	Exterior Side Yard	Distance equal to the depth of the minimum required front yard of the abutting Residential Zone

- iii) When an accessory building is made up in whole or in part of *shipping container(s)*, the accessory building shall be clad with exterior design materials similar to those used for the main building located on the lot.

4.1.3 Public uses

The provisions of this By-Law shall not apply to prevent the use of any land, *building* or *structure* by any *public authority* provided that:

- i) Such use, *building* or *structure* complies with the parking and loading requirements of this By-Law.
- ii) No outdoor storage is permitted unless such outdoor storage is specifically permitted in the zone in which the use is located.
- iii) Such use, *building* or *structure* is buffered from an adjacent *residential* use in accordance with the requirements of Section 4.14.3 of this By-Law.
- iv) Such use, *building* or *structure* within the FP Zone shall not conflict with those uses that are prohibited under Section 7.1.1.

4.1.4 Services and Utilities Installations

Nothing in this By-Law shall prevent the installation and use of a water main, sanitary sewer main, storm sewer main, stormwater management facility, gas main, pipeline, overhead or underground hydro, communications/telecommunications or other utility infrastructure.

4.1.5 Satellite Dishes

Satellite dishes with a maximum width of 1.0 metre each are permitted in any zone provided they are mounted on an exterior wall, roof or chimney of a *building* of the *lot* on which it is located.

Antennae with a maximum height of 1.5 metres greater than the permitted maximum height for the building to which they are affixed are permitted in any zone provided they are mounted on an exterior wall, roof or chimney of a *building* of the *lot* on which it is located.

In a Residential Zone, not more than 2 cumulative satellite dishes and antennae shall be permitted per *dwelling unit* on the *lot*.

4.1.6 Temporary Construction Uses

A construction trailer, or other *building* or *structure* incidental to construction is permitted in all zones on the *lot* where construction is taking place provided that a *building* permit has been issued and remains in effect.

4.1.7 Temporary Sales Structures

A temporary sales structure shall be permitted in any zone provided that:

- i) the temporary sales structure is located in accordance with the zone provisions for the zone in which it is located; and,
- ii) an agreement is entered into with the Town of Newmarket.

4.1.8 Model Homes

Model homes shall only be permitted on lands that have received Draft Plan of *Subdivision* or Site Plan Approval for residential purposes provided that:

- i) not more than the lesser of 10 dwellings or 10% of the total number of residential units contained in the approved Draft Plan or Site Plan are constructed as model homes;
- ii) the model home is built within a *lot* defined by the draft approved Plan of *Subdivision* or Site Plan;
- iii) the model home complies with all other requirements of this Zoning By-Law; and,
- iv) a Model Home Agreement is entered into with the Town of Newmarket.

4.2 Encroachments into Required Yards

The following accessory, structural and ornamental structures to a *principal building* are permitted to encroach into any required yard in accordance with the following provisions:

Permitted Structure or Feature	Applicable Required Yard(s)	Required Setback or Permitted Encroachment
STRUCTURAL AND ORNAMENTAL FEATURES:		
Bay windows	Front, rear and exterior side yards	May encroach 1 metre into the required yard for a maximum width of 3 metres
Balconies/Landings/Steps/Fire Escapes	Front, rear and exterior side yards only in Residential Zones, all yards in all other zones	May encroach 1.8 metres into the required yard. But in no instance shall balconies, landings, steps and/or fire escapes be located closer than 1.2 metres from the property line. <i>By-law 2012-74</i>
Decks, Uncovered (0.6 metres or less in height above finished grade)	Rear Yard	The setback shall not apply where a <i>side lot line</i> extends from a common wall dividing attached dwelling units. No closer than 1.2 metres from the rear lot line.
Decks, Uncovered (greater than 0.6 metres to 3.0 metres in height above finished grade)	Rear Yard	The setback shall not apply where a <i>side lot line</i> extends from a common wall dividing attached dwelling units. May encroach 3.6m into the required rear yard. However, in no circumstances shall the deck encroach closer than 2.4 metres from the rear lot line.
Patios, Uncovered	Downtown, Urban Centre and Commercial Zones: front and exterior side	No required setback.

Permitted Structure or Feature	Applicable Required Yard(s)	Required Setback or Permitted Encroachment
	yards. All other Zones: rear and exterior side yards.	No closer than 0.6 metres from the lot line.
Porches, Porticoes Open, Uncovered or Covered with a platform no higher than the first storey of the building above established grade.	Front, and exterior side yards By-law 2011-25	May encroach 2.4 metres into the required yard including eaves, cornices and steps but no closer than 1.5 metres to the lot line.
Sills, cornices, parapets, pilasters, or other similar ornamental structures	Any Yard	May encroach 0.6 metres into the required yard
Eaves, eavestroughs, gutters, or similar features	Any Yard	May encroach into a required yard a maximum of 0.7 metres, and may be no closer to a lot line than 0.3 metres.
Chimneys	Any Yard	May encroach 0.6 metres into the required yard.
Drop awnings, clothes poles, flag poles, ornamental light poles, basketball nets, retaining walls, fences or other similar accessory structures	Permitted in any yard	No required setback
Accessibility Ramps or Wheelchair Lifts (*2) By-law 2018-50	Permitted in any yard	No required setback
Antennae or satellite dishes (Wall mounted in accordance with Section 4.1.5 of this By-law) By-law 2018-50	Permitted in any yard.	Not closer than 0.2m from any lot line.

Permitted Structure or Feature	Applicable Required Yard(s)	Required Setback or Permitted Encroachment
Barbeque, chiminea, fireplace, fire pit, or similar structure <i>By-law 2018-50</i>	Permitted in any yard of a residential zone	No closer than 4 metres from the edge of the area capable of holding a flame to any lot line, building, structure, deck, hedge, tree, fence, right-of-way, or overhead wire, subject to the Town's By-law to Regulate Outdoor Burning 2009-64 or its successor by-law, as applicable.
ACCESSORY STRUCTURES:		
<i>Residential Accessory Structures up to 2.8 metres in height(*1) By-law 2018-50</i>	Rear or Side Yard	No closer than 1.0 metre from rear or side lot line
<i>Residential Accessory Structures greater than 2.8 up to 4.6 metres in height (*1)</i>	Rear or Side Yard	No closer than 2.4 metres from rear or side lot line
Satellite Dishes (Wall mounted in accordance with Section 4.1.5 of this By-Law)	Permitted in any yard.	No closer than 0.2 metres from any lot line.
Gate House within an Employment Zone	Front or Side Yard	No required setback

(*1) As defined under Section 3 *Height, Accessory Residential Structure*

(*2) An *Accessibility Ramp* shall have a maximum gradient of 1 to 12. A *Wheelchair Lift* is permitted to elevate no higher than the first storey of the building, and have a maximum area no greater than 3.0 square metres. *By-law 2018-50*

The setback requirements of this table apply only to the *accessory buildings and structures* specifically noted.

Where an encroachment is permitted, it is subject to the following conditions:

- i) Decks or patios that are permitted to encroach may have a deck, balcony, gazebo, pergola, or awning above them provided that:
 - a. Any deck is constructed of a floor with slats and spaces between them and not a solid floor

- b. Any awning is retractable, is not a permanently extended fixture, and does not extend farther from the structure than the deck or patio
 - c. Any pergola or gazebo complies with the requirements of a Residential Accessory Structure concerning required setbacks and maximum height from grade, regardless of whether they are attached to the deck or main structure or they are detached from same.
- ii) Where the existing side-yard setback of the principal structure is less than the required side-yard setback for a deck, a deck that is attached to the main structure may be located as close to the side lot line as the principal structure. *By-law 2018-50*

4.3 Accessory Outdoor Mechanical Equipment for Residential Uses

Notwithstanding any other provision of this By-Law, outdoor mechanical equipment shall be permitted in all zones that permit a residential use as follows:

- i) Central air conditioning units, heat pumps, generators, and/or swimming pool equipment shall be permitted in all yards subject to the following:

Type of Dwelling	Yard	Permitted Location
Single detached, semi-detached, and link dwellings	Front or Exterior Side Yard	Maximum encroachment of 1.5 metres into required yard but no closer than 3.0 metres to the street line and is screened from the street by fencing, landscaping, or an enclosure
	Interior Side or Rear Yard	Setback a minimum 0.6 metres from lot line
Townhouses or other multiple dwellings, excluding apartment buildings	Front Yard	Maximum encroachment of 1.5 metres into required yard but no closer than 3.0 metres to the street line and is screened from the street by fencing, landscaping, or an enclosure
	Interior Side Yard	Setback a minimum 0.3 metres from lot line
	Exterior Side or Rear Yard	Setback a minimum 1.8 metres from lot line

- ii) Notwithstanding the provisions of Section 4.3 (i) above, a minimum lateral separation of 4.6 metres to a window and/or door of a habitable room of a dwelling on an adjoining lot shall be provided;

- iii) Window or through-wall *air conditioner* units shall be permitted to encroach a maximum of 0.5 metres into all required yards subject to a minimum setback of 0.6 metres from all *lot lines*;
- iv) Notwithstanding the provisions of Section 4.3 (i) above, central *air conditioners* and/or heat pump units for *apartment buildings* shall be roof-top mounted.

4.4 Requirements for Swimming Pools for Residential Uses

Notwithstanding any other provisions of this By-Law, an unenclosed swimming pool may be permitted as an accessory use to a *residential use* in accordance with the following provisions:

- i) Such accessory swimming pool shall only be located in a rear yard;
- ii) Any swimming pool or hot tub shall be setback a minimum 1.2 metres from the side or rear *lot line*. *By-law 2011-25*;
- iii) Any *patio, deck, residential structure, accessory, or other structure* associated with a pool shall be constructed in accordance with the provisions contained in this Zoning By-law including Section 4.2.
- iv) Any recreational equipment, including slides, associated with the swimming pool shall not exceed a maximum height of 2.4 metres;
- v) Any mechanical equipment required for water circulation, heating or water treatment shall be located in accordance with the requirements of Sections 4.3 (i) and (ii) of this Zoning By-Law; and
- vi) Swimming pools shall be enclosed by a fence in accordance with the Town of Newmarket Swimming Pool Enclosure By-Law.
- vii) In the Floodplain and Other Natural Hazards (FP-NH) zone as delineated by the Lake Simcoe Region Conservation Authority, swimming pools are permitted subject to the requirements of the LSRCA.

4.5 Accessory Dwelling units

Where an *accessory dwelling unit* is permitted, the following provisions shall apply:

- i) Only one *accessory dwelling unit* shall be permitted per lot and shall be located within the main *dwelling unit*;
- ii) An *accessory dwelling unit* shall only be permitted in a single detached, *link or semi-detached dwelling*;
- iii) The primary *dwelling unit* must be serviced by full municipal water and sewer services;
- iv) No new *accessory dwelling unit* shall be permitted within the Environmental Protection Open Space (OS-EP) Zone or within the Floodplain and Other Natural Hazards (FP-NH) Zone as delineated by the Lake Simcoe Region Conservation Authority; and

- v) The external appearance of the front façade of a *building* or any other façade of a *building* facing a street on which the *lot* has frontage shall not be altered.
- vi) Parking shall be provided in accordance with Section 5.3.1. *By-law 2012-74*

4.6 Home Occupations

Where a *home occupation* is permitted the following provisions shall apply:

- i) In addition to the resident(s) of the *dwelling unit* operating the *home occupation*, not more than two non-resident employees may be engaged in the business and working in the dwelling;
- ii) Notwithstanding Section 4.6 (i) above, the following shall apply:
 - a) the office of a licensed medical practitioner as a home occupation shall be limited to only one practitioner; and,
 - b) operation of a hairdresser or barber shop shall be limited to one hairdresser or barber at any one time;
- iii) The use is entirely restricted to the *dwelling unit* and is not conducted in whole or in part in any *accessory building*, *yard* or detached garage;
- iv) No more than 35%, up to a maximum of 42 m², of the *gross floor area* of the *dwelling unit* is used for the purpose of the *home occupation*;
- v) There is no outdoor storage or display of material or equipment, nor any facilities associated with the *home occupation* in any outdoor amenity area or *yard*;
- vi) Only the accessory sale of retail goods shall be permitted from the *premises*; *By-law 2012-74*
- vii) There is no external advertising other than a sign erected in accordance with the Town of Newmarket Sign By-Law;
- viii) Off-street *parking spaces* shall be provided in accordance with the requirements of Section 5.3.1 of this By-Law;
- ix) The use is clearly secondary to the *residential use* and does not change the residential character of the dwelling or *lot*; and
- x) Notwithstanding the above provisions, a *medical clinic*, *day nursery*, *nursing home*, *tea room*, *veterinary clinic*, *veterinary hospital*, *automotive uses*, or *body rub parlour* shall not be permitted as a *home occupation*. *By-law 2012-74*

4.7 Exceptions to Height Requirements

The *height requirements* of this By-Law shall not apply to spires, belfries, minarets, monuments, flag poles, chimneys, clock towers, water towers, or

elevator enclosures. The *height* requirements of this By-Law shall also not apply to mechanical penthouses occupying less than 10% of the aggregate area of the roof of the *building* on which they are located.

4.8 Legal Non-Conforming Uses

This By-Law shall not prevent the use of any land, *building* or *structure* for any purpose prohibited by this By-Law if such land, *building* or *structure* was lawfully used for such purpose on the day of passing of this By-Law, and provided that such land, *building* or *structure* continues to be used for that purpose.

4.8.1 Restoration to a Safe Condition

Nothing in the By-Law shall prevent the strengthening to a safe condition or the reconstruction of any *building* or *structure* or part of any such *building* or *structure* that is used for a legally *non-conforming* use as provided for in Section 4.8, provided such alteration or repair does not increase the *height*, size or volume or change the use of such *building* or *structure*.

4.9 Legal Non-Complying Buildings or Structures

4.9.1 Existing Buildings or Structures

A *non-complying building* or *structure* which existed legally prior to the passing of this By-Law may be enlarged, repaired, renovated or reconstructed provided that the enlargement, repair, renovation or reconstruction:

- i) does not further encroach into a required *yard*;
- ii) does not further increase the extent of a non-compliance with a maximum *yard* setback requirement; and,
- iii) complies with all other applicable provisions of this By-Law.

4.9.2 Valid Building Permit in Effect

This By-Law shall not prevent the erection of a *building* or *structure* for which a *building* permit has been issued in accordance with the *Building Code Act*, prior to the day of the passing of this By-Law, so long as the *building* or *structure* when erected is used and continues to be used for the purpose for which it was erected and provided that the *building* permit remains valid.

4.10 Legal Non-Complying Lots

A *lot* which existed legally prior to the effective date of this By-Law, that does not meet the *lot area* and/or *lot frontage* requirements of the applicable *Zone*, shall be deemed to conform to this By-Law. Such *lots* may be used and *buildings* may be erected, enlarged, repaired or renovated on the *lot* provided

that the use and the *buildings* or *structures* comply with all other provisions of this By-Law.

4.11 Public Land Acquisition

Notwithstanding any other provision of this By-Law, where, as a result of acquisition of land by a public authority, such acquisition results in a contravention of this By-law relating to the minimum lot frontage, minimum lot depth, minimum lot area, minimum floor space index, maximum lot coverage, reduced building setbacks, minimum required number of parking spaces, minimum size of parking spaces, minimum width of landscape buffers, minimum width of a driveway, location of parking spaces and/or driveways or minimum required setbacks and/or yards for driveways and/or parking spaces, then the lands so affected are deemed to comply with this By-law to the extent it complied with this By-law on the day before the acquisition was finalized. A building or structure may be erected, altered or repaired with the lot coverage and floor space index as would have been allowed for the lot as it existed prior to such public acquisitions or conveyance. (By-law 2014-13)

4.12 Frontage on a Public Street

No person shall erect any *building* or *structure* in any zone unless:

- i) The *lot* upon which such *building* or *structure* is to be erected has frontage on a *public street*. This provision shall not restrict the erection of any *building* on a *lot* in a registered plan of *subdivision* where a *subdivision* agreement has been entered into but the streets will not be assumed until the end of the maintenance period; or
- ii) The *lot* upon which the *building* or *structure* is to be erected is a *Parcel of Tied Land* (POTL) where a POTL may front on either a *public street* or a condominium common element street; or
- iii) Notwithstanding any other provisions in this By-Law, where a *building* has been erected prior to the date of the passage of this By-Law on a *lot* which fronts on a *private street*, such *building* may be enlarged, reconstructed, repaired or renovated provided all other applicable provisions of this By-Law are satisfied.

4.13 Conformity with an Established Building Line

Notwithstanding any other provisions of this By-Law, in any zone, *structures* built between *existing buildings* may be built with a setback which is equal to the average setback of the adjacent *buildings* within 60 metres frontage along the same block, but this depth shall not be less than 3 metres from the *front lot line* and need be no greater than the setback requirements prescribed in the zone in which it is situated.

4.14 Landscape Buffers

Where required, *landscape buffers* shall be provided in accordance with the following requirements:

4.14.1 Landscape Buffers for Parking Lots

A landscaped buffer area shall be required for *parking lots* designed to accommodate 5 or more *parking spaces*, within any Downtown, Urban Centre, Employment, Commercial, Institutional, Open Space or Residential Four (R4) or Residential Five (R5) Zone and shall conform to the following requirements:

- i) Such buffer area shall be at least 3 metres wide and located around the periphery of the *parking lot* within the *lot* on which the *parking area* is located.
- ii) Such buffer area shall not be used for any other purpose other than vegetative landscaping but shall not prevent the provision of entrances and exits across the buffer area.
- iii) Any required planting in a buffer strip shall have a minimum height of 1.5 metres for coniferous vegetation, a minimum diameter measured at a height of 1.4m from grade of 60mm for deciduous vegetation, and a minimum height or spread of 450mm for shrubs, but shall not be permitted to exceed a height of 1.0 metres within a *daylighting triangle*. *By-law 2012-74 , 2018-50*
- iv) Where a buffer area is required between a *parking lot* in a Downtown, Urban Centre or Commercial Zone; and, a Residential or Open Space Zone, the buffer area shall be a minimum of 3 metres wide and shall be located in the Downtown, Urban Centre or Commercial Zone. The buffer area shall be used for no other purpose than landscaping or entrances and exits and shall be bordered by an opaque fence 1.8 metres in height.
- v) Notwithstanding subsection [i](#)) above, where a buffer area is required between a *parking lot* in an Employment Zone and a Residential or Open Space Zone, the buffer area shall be a minimum of 6 metres wide and shall be located in the Employment Zone. The buffer area shall be used for no other purpose than landscaping or entrances and exits and shall be bordered by an opaque fence 1.8 metres in height.

4.14.2 Landscape Buffers in Employment Zones

In addition to the requirements of Section 4.14.1, in all Employment Zones, *landscape buffers* shall be provided adjacent to *street lines* except for land used to accommodate vehicular access to and permitted parking on the *lot*. Such buffers shall be established as follows:

Location of Landscape Buffer	Minimum Width of Landscape Buffer
Front Yard	12.0 metres
Exterior Side and Rear Yard	3.0 metres

4.14.3 Landscape Buffers Adjacent to Residential Areas

Notwithstanding any other provision of this By-Law, where the *rear lot line* or *interior side lot line* of a commercial, industrial, or *institutional use* abuts a *residential use*, a landscaped buffer shall be required in accordance with the following provisions:

- i) the *Landscape Buffer* shall be located on the *lot* containing the commercial, industrial, or *institutional use*, immediately adjacent to the *lot line* that borders such *lot* with the *residential use*.
- ii) the minimum required width of a landscaped buffer shall be 6 metres for an *industrial use* and 3 metres for an *institutional* or *commercial use*.
- iii) where a landscaped buffer is required, such landscape material within the buffer shall be not less than 1.5 metres high. Notwithstanding this requirement, landscape material shall not exceed a height of 1.0 metre within the minimum front or *exterior side yard* *By-law 2011-25*.
- iv) where the *rear lot line* or *interior side lot line* of a Residential Four (R4) Zone or Residential Five (R5) Zone abut a lower density Residential Zone the minimum required width of a landscaped buffer shall be 3 metres *By-law 2011-25*.

4.15 Daylighting Triangle

Daylighting triangles shall be required on *corner lots* in all zones as follows:

4.15.1 Establishing the Daylighting Triangle

The area within the *daylighting triangle* shall be determined by measuring from the point of intersection of two *street lines* or the extension of such lines on a *corner lot*, the distance required by this By-Law, Town of Newmarket Engineering Design Standards and Region of York requirements, whichever is greater, along each such *street line* and joining such points with a straight line. *Daylighting triangles* shall be established as follows:

Location	Minimum Distance Measured Along Each Street Line From Point of Intersection at Corner
All Zones	5 metres
Motor Vehicle Service Station, Motor Vehicle Service Shop	15 metres

By-law 2011-25

4.15.2 Maximum Height in Daylighting Triangle

Notwithstanding any other provision of this By-Law, any fence, sign, structure or vegetation within a *daylighting triangle* shall not exceed a height of 1.0 metre measured from the grade of the streets that abut the *lot*.

4.16 Provincial Highway Setbacks

Notwithstanding the provisions regulating siting or yard requirements in this By-Law, unless they are greater:

- i) No part of any new *building* above or below ground shall be constructed within 13.7 metres from the property line of a Provincial Highway.
- ii) No required *parking area* above or below ground shall be constructed within 13.7 metres from the property line of a Provincial Highway.

4.17 Planned Width of Street Allowance

Notwithstanding any other provision of this By-Law, where a *lot* abuts a street which is designated on Schedule B to this By-Law has a planned width of street allowance which is greater than the present width, that portion of the *lot* lying between the limit of the planned width of street allowance and the present street allowance shall not form part of the *lot* for applying the provisions and required standards of this By-Law.

4.18 Through Lot

Where a *lot* which is not a *corner lot*, has frontage on more than one street, the setback and yard requirements of this By-Law shall apply to all street frontages in accordance with the zone or zones in which the *lot* is located.

4.19 Specific Use Provisions

Notwithstanding any other provision of this By-Law, the following specific use provisions shall apply:

4.19.1 Location of Gasoline and Propane Pumps and Canopies

Where permitted, the following standards shall apply to the location of gasoline and propane pumps and canopies:

- i) the *minimum distance of pumps and canopies from the planned street line of the street upon which the lot fronts shall be 4.5 metres; and*
- ii) the *minimum distance of pumps and canopies from the nearest part of a daylighting triangle shall be 3 metres.*

4.19.2 Outdoor Display and Sales Area

Where the outdoor display and sale of goods and materials is permitted as an accessory use, the following provisions apply:

- i) the area used for outdoor display and sales is located on the same *lot* as the principal use and does not occupy more than 35% of the total *lot* area;
- ii) the area used for outdoor display and sales is in addition to and separated from, the area required to satisfy the minimum required parking standards for the principal use; and,
- iii) the area used for outdoor display and sales shall not be located in any minimum required *yard* for the zone in which it is located.

4.19.3 Human Habitation Not Within Main Buildings

No truck, bus, coach, street car body, railway car, mobile home, trailer or other vehicle shall be used for human habitation whether or not the same is mounted on wheels or other forms of mounting or foundations. *By-law 2018-50*

4.19.4 Accessory Outdoor Storage

Where permitted, Accessory Outdoor Storage shall:

- i) not exceed 30% of the lot area;
- ii) not be visible from a street;
- iii) be screened by an opaque fence;
- iv) only be located in a side and/or rear yard;
- v) be located no nearer to a lot line than 1.5 metres or to a street line than 4.5 metres;
- vi) not be located in any landscaped area or required parking area; and
- vii) not exceed 4.5m in height. *By-law 2018-50*

4.19.5 Micro-Industrial Uses

Where a *Micro-Industrial* use is permitted, the following requirements shall apply:

- i) A *Micro-Industrial* use is only permitted when accompanied by a *retail* and/or *restaurant* use retailing products produced on-site.
- ii) All production, retailing, and distribution associated with a *Micro-Industrial* use must take place within a *building* and no outdoor storage is permitted. Outdoor areas for consumption are permitted subject to all requirements of this by-law.
- iii) Where permitted in an EG zone, *retail* associated with a *Micro-Industrial* use shall not exceed 40% of the GFA of the *premises* in which it is located. Where permitted in an EH zone, *retail* associated with a *Micro-Industrial* use shall not exceed 20% of the GFA of the *premises* in which it is located. *By-law 2018-50*

4.19.6 Food Vehicles

- i) Notwithstanding Section 4.1.1, a *Food Vehicle* as an *accessory* use is not permitted in a *Residential* zone, save and except the R5 zone.
- ii) Notwithstanding Section 5, no parking is required for a *Food Vehicle*. *By-law 2018-50*

4.19.7 Single Detached Dwellings

- i) For greater clarity, unless otherwise specified in this by-law, where a *dwelling, detached* is permitted as a use only one *dwelling, detached* is permitted on the *lot*. *By-law 2018-50*

4.19.8 Fuel Tanks

- i) Where fuel tanks are permitted, the following standards shall apply to their location:
 - a. In a *residential* zone, be located in accordance with the provisions of *Residential Structure, Accessory*.
 - b. In any other zone, be located in accordance with an approved site plan.
 - c. In any zone, be located in accordance with the requirements of the *Technical Standards and Safety Authority* and the *Fire Code*, as applicable.

4.20 Use for Hazardous Purposes

Notwithstanding any other provision of this By-Law, no land, *building* or *structure* may be used for any purpose, which from its nature or from the materials used, is determined to be a health hazard in accordance with the *Health Protection and Promotions Act* or its successor thereto, without the consent of the local medical health officer as provided for in the Act.

4.21 Uses Restricted

Notwithstanding any other provisions contained in this By-Law, the following uses are prohibited within 610 metres of any Downtown, Residential or Urban Centre Zone unless specifically permitted:

- i) The manufacture or open storage of fertilizers from human or animal wastes.
- ii) The slaughtering of animals or poultry.
- iii) The following Commercial or *Industrial* uses:
animal food plant; clay, concrete or brick products plant; coal yard;
dry cleaning plant using flammable solvents; explosive *manufacturing*
or storage in excess of 11 kilograms; sewage disposal plant; incinerator;
or, gas, tar or petroleum processing.

4.22 Municipal Services

4.22.1 Dwelling Unit Within a Subdivision

Municipal services are deemed to be available to a *dwelling unit* within a *subdivision* when the roads, water, storm sewer, sanitary sewer and storm water management facilities required to service the *dwelling unit* satisfy the following requirements:

- i) the public highways and lanes in the *subdivision* have been constructed to base course asphalt;
- ii) the watermains, sanitary sewers, storm sewers and storm water management facilities necessary to service the *dwelling unit* have been constructed and are operational;
- iii) the following requirements with respect to any necessary sanitary, storm and watermain trunks and storm water management facilities external to the site or *subdivision* have been satisfied:
 - a) all property required for the service has been dedicated to the Corporation of the Town of Newmarket or other government having jurisdiction, if applicable;
 - b) the contract for the construction of the service has been awarded;
 - c) a construction schedule, confirming completion and operation of the external service prior to occupancy, has been provided to the satisfaction of the Town's Director responsible for such services; and,
 - d) the Town or other government having jurisdiction has received adequate security for the construction of the external service, if it is intended to be constructed by a private party.

- iv) the watermain and any required service connections 100mm in diameter or greater in size have been disinfected in accordance with Ontario Provincial Standard Specification 201, or its successor thereto, and American Water Works Association Standard C651-99, or its successor thereto, and any required service connections 38mm in diameter up to an including 99mm in diameter are to be flushed and satisfactorily sampled in accordance with applicable MOE Regulations, at the sole discretion of the Overall Responsible Operator (O.R.O.) and the Town Director responsible for such services to ensure that the water meets Provincial quality standards and such other standards as are adopted by the Corporation of the Town of Newmarket.
- v) the watermain and any required service connections 100mm in diameter or greater in size have been hydrostatically tested in accordance with Ontario Provincial Standard Specification 701, or its successor thereto, and American Water Works Association Standards C600-099 and C605-94, or their successors thereto, or such other standards adopted by the Corporation of the Town of Newmarket.
- vi) a water flow test has been conducted in accordance with NFPA Standard 921, or its successor thereto, and at no point in the system are the following flow standards for firefighting purposes not met: 5,000 litres/minute at 140 kpa for *detached dwelling units* and 7,000 litres/minute at 140 kpa for multiple-unit *buildings* or such other standard adopted by the Town's Fire Chief; and,
- vii) notwithstanding clause vi) above, a single access in any *subdivision*, to the satisfaction of the Town's Fire Chief, may be permitted where any *dwelling unit* to be constructed is not more than 100 metres, measured along the said access, from an existing, assumed public highway that is connected to the said single access.

4.22.2 Dwelling Units Not Within a Subdivision

Municipal services are deemed to be available to a *dwelling unit*, a multiple-unit *building* that is not within a *subdivision* when the roads, water, storm sewer, sanitary sewer and storm water management facilities required to service the *dwelling unit* satisfy the following requirements:

- i) where the *dwelling unit* does not front directly on an assumed public highway, an access route for fire department use, in accordance with the provisions of the Building Code, O. Reg. 403/97 or any successor legislation or regulation, has been provided;
- ii) where any of a watermain, sanitary sewer and storm drainage systems are available within a public road allowance adjacent to the *lot* on which the *dwelling unit* is to be located, those facilities are constructed and are operational;

- iii) where sanitary sewers are not available to the *lot* on which the *dwelling unit* is to be located, a permit for a private sewage disposal system is available;
- iv) where a new watermain extension is required to provide water service, the watermain and any required service connections 100mm in diameter or greater in size have been disinfected in accordance with Ontario Provincial Standard Specification 701, or its successor thereto, and American Water Works Association Standard C651-99, or its successor thereto, and any required service connections 38mm in diameter up to and including 99mm in diameter are to be flushed and satisfactorily sampled in accordance with applicable M.O.E. Regulations, at the sole discretion of the Overall Responsible Operator (O.R.O.) and the Town Director responsible for such services to ensure that the water meets Provincial quality standards and such other standards as are adopted by the Corporation of the Town of Newmarket;
- v) where a new watermain extension is required to provide water service, the watermain and any required service connections 100mm in diameter or greater in size have been hydrostatically tested in accordance with Ontario Provincial Standard Specification 701, or its successor thereto, and American Water Works Association Standards C600-00 and C605-94, or their successors thereto, or such other standards adopted by the Corporation of the Town of Newmarket; and,
- vi) where a new watermain extension is required to provide water service, a water flow test has been conducted on the watermain and any service connections 100mm in diameter or greater in size in accordance with NFPA Standard 921, or its successor thereto, and at no point in the system are the following flow standards for firefighting purposes not met: 5,000 litres/minute at 140kpa for *detached dwelling units* and 7,000 litres/minute at 140 kpa for multiple unit *buildings*, such other standard adopted by the Town's Fire Chief.

4.22.3 Municipal Services Capacity Required for New Dwelling Units

Notwithstanding any other provisions contained herein or enacted hereafter pursuant to Section 34 of the *Planning Act*, or any predecessor thereof, by the Council of the Corporation of the Town of Newmarket, or any predecessor thereof, no land shall be used and no *building* or *structure* shall be erected or used which will result in the creation of any new or additional *dwelling units* unless:

- i) water and sanitary sewer capacity is available and the Council of the Corporation of the Town of Newmarket has allocated water and sanitary sewer capacity to service the said lands and *dwelling units* or the said Council has exempted the development or the class of development from the requirement for allocation of capacity; and

- a) the Town's Director responsible for such services has confirmed that municipal services are available in accordance with sub-sections 4.24.1 i) to v) inclusive or sub-sections 4.24.2 ii), iv) and v) inclusive as the case may be;
 - b) the Town's Fire Chief has confirmed that sub-sections 4.24.1 vi) to vii) both inclusive or sub-section 4.24.2 i) and vi) both inclusive as the case may be;
 - c) the Town's Chief Building Official has confirmed that sub-section 4.24.2 iii) has been complied with.
- ii) with respect to multi-unit *buildings* within the site plan control area as designated through a By-Law passed by the Council of the Corporation of the Town of Newmarket under Section 41 of the *Planning Act* R.S.O., 1990 c. P. 13, or its successor thereto, the Council of the Corporation of the Town of Newmarket has approved a site plan under Section 41 of the *Planning Act*, R.S.O., 1990 c. P. 13, or its successor thereto, and the owner of the land has executed a site plan agreement, if applicable, and
- a) the Town's Director responsible for such services has confirmed that municipal services are available in accordance with sub-sections 4.24.1 i) to v) inclusive or sub-sections 4.24.2 ii), iv) and v) inclusive as the case may be;
 - b) the Town's Fire Chief has confirmed that sub-sections 4.24.1 vi) to vii) both inclusive or sub-section 4.24.2 i) and vi) both inclusive as the case may be;
 - c) the Town's Chief Building Official has confirmed that sub-section 4.24.2 iii) has been complied with.

4.22.4 Nothing in this By-Law Shall Prevent

- i) the erection of *buildings* for uses incidental to construction, such as a construction camp or other such temporary work camp, tool shed, scaffold or other *building* or *structure* incidental to the construction only for so long as the same are necessary for work in progress which has neither been finished nor abandoned; and
- ii) the erection of model homes and sales offices, subject to Section 4.1.8, terms and conditions as established by the Town, and the provision of an access route for fire department use in accordance with the Building Code, O.Reg. 403/97, or its successor thereto.

4.23 Garbage and Waste Management

- i) Garbage containment shall be located within either a *building*, or a garbage enclosure surrounded by an opaque fence no less than 1.8m in

height, in the following zones or where the following uses are being undertaken:

- Any Commercial zone;
- Any Employment zone;
- Any Institutional zone;
- Any Open Space zone; or
- Any lot containing an *Apartment Building*.

- i) A *structure* primarily used for garbage containment or a garbage enclosure shall not be located:
- In a front yard;
 - In an exterior side yard;
 - In any minimum yard abutting a Residential, Institutional, Urban Centre, or Open Space Zone; or
 - Within any required landscaped areas.
- ii) A *building* used for garbage containment or a garbage enclosure shall be located in accordance with an approved site plan. *By-law 2018-50*

General Provisions

4.1 Accessory Dwelling Units

4.1.1 Residential Zones

Where an *accessory dwelling* is permitted in a Residential Zone, the following regulations apply:

- a) A maximum of one *accessory dwelling* is permitted on a *lot*.
- b) An *accessory dwelling* is only permitted within a *detached dwelling* and *semi-detached dwelling*.
- c) Notwithstanding subsection (b) above, an *accessory dwelling* is permitted within an *accessory building* on a *corner lot* in the Residential Uptown Core (RUC) Zone.
- d) An *accessory dwelling* shall have a maximum *floor area* of the lesser of 40% of the *residential floor area* of the *detached dwelling* or *semi-detached dwelling* or 75.0 square metres. For the purposes of this subsection, *residential floor area* shall include all area within a *basement*.
(2016-023)
- e) Any separate entrance and exit to the *accessory dwelling* shall be oriented toward the *flankage lot line*, *interior side lot line*, or *rear lot line*.

Subsections (b) and (d) above do not apply to an *accessory dwelling* that legally existed on or before November 16, 1995.

Accessory dwellings established before November 16, 1995 are instead regulated and licenced under the Town's Accessory Apartment Registry. Contact Building Services for more information.

4.1.2 Commercial Zones

Where an *accessory dwelling* is permitted in a Commercial Zone, the following regulations apply:

- a) An *accessory dwelling* is only permitted within the same *building* as a permitted retail, service commercial, or office *use*.
- b) An *accessory dwelling* is not permitted on a *first storey* unless it legally existed on the effective date of this By-law. Notwithstanding this, *ancillary residential uses* are permitted on the *first storey*.

4.2 Accessory Uses

Where this By-law provides that land may be *used* or a *building* or *structure* may be erected and *used* for a permitted *use*, that *use* shall include any *accessory use* as long as the *accessory use* is located within the same *premises*.

General Provisions

4.3 Allowable Projections *(2016-023) (2017-025)*

The following projections are permitted in accordance with Table 4.3, below

Table 4.3: Allowable Building and Structure Encroachments and Projections			
Structure or Feature	Applicable Yards	Maximum Encroachment into a Minimum Yard	Maximum Total Projection beyond the main wall
Access stairs associated or not associated with a porch or uncovered platform <i>(2016-023)</i>	All	Up to 0.6 m from the applicable lot line	n/a
Air conditioners, heat pumps, swimming pool pumps, filters, and heaters, including any appurtenances thereto <i>(2017-025)</i>	Flankage, interior side, and rear	Up to 0.6 m from the applicable lot line (2)	n/a
Awnings, canopies, cornices, coves, belt courses, eaves, gutters, pilasters, sills, or weather-shielding structure	All	0.6 m	n/a
Balconies	Front and rear (-0)	n/a	1.5 m
Non-walk in bay, box out and bow windows, without foundations, with a maximum width of 3.0 metres and a maximum height of one storey	All	0.6 m	n/a
Chimneys and gas fireplace projections and chases with a maximum width of 1.8 metres	All	0.6 m	n/a
Fire escapes	Rear and interior side	1.5 m	n/a
Industrial or mechanical equipment in the E2 and E3 Zones <i>(2017-025)</i>	Rear and Side	Equal to the minimum yard requirements	n/a
Landscaping features (i.e., ornamental and garden walls, planters, etc.) <i>(2017-025)</i>	All	Up to 0.6 m from the applicable lot line	n/a
Porches with or without a foundation and including access stairs in the Residential Low RL6 Zone	Front and flankage	Up to 1.5 m from the front or flankage lot line	n/a
Porches with or without a foundation and including access stairs in the Residential Uptown Core RUC Zone	Front and flankage	2.0 m	n/a
<ul style="list-style-type: none"> • Porches with a foundation • Porches without a foundation in all other zones 	n/a	Shall be subject to the regulations of the parent zone	
Uncovered platform attached to a pool structure <i>(2017-025)</i>	Rear and Side	Up to 0.91 m from the interior, side, or rear lot line	n/a
	Flankage	Up to 2.0 m from flankage lot line	n/a
Uncovered platforms having a floor height of less than 0.6 metres measured from grade <i>(2016-023)</i>	All	Up to 0.6 m from any lot line (1)	n/a

In Table 4.3, “n/a” means that the identified measurement is not applicable to the structure or feature identified.

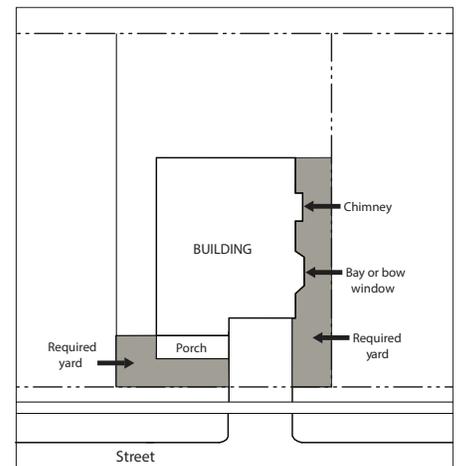
General Provisions

Table 4.3: Allowable Building and Structure Encroachments and Projections			
Structure or Feature	Applicable Yards	Maximum Encroachment into a Minimum Yard	Maximum Total Projection beyond the main wall
<i>Uncovered platforms</i> having a floor height equal to or greater than 0.6 metres measured from grade (2016-023)	<i>Front and Rear</i>	1.5 m (1)	n/a
<i>Uncovered platforms</i> with or without a foundation and including access stairs in the Residential Low RL6 Zone (2015-018)	<i>Rear</i>	Up to 3.0 m from the rear lot line	n/a
Uncovered access stairs below grade	<i>Rear</i>	1.5 m	n/a
	<i>Side</i>	0.0 m	1.5 m
Unenclosed barrier-free ramps (2015-018)	All	Up to 0.0 m from the lot line	n/a

In Table 4.3, “n/a” means that the identified measurement is not applicable to the structure or feature identified.

Additional Regulations to Allowable Projections Table 4.3

- 0. Where lands are shown on the Zoning Maps of this By-law to be in the -0 Suffix Zone, the additional regulations of Section 6.4 shall apply to the applicable allowable projections.
- 1. Provided that the *uncovered platform* is set back:
 - a) A minimum of 0.6 metres from the *interior side lot line*, except for *semi-detached, back-to-back townhouse, and townhouse dwellings* in which case it may be 0.0 metres from an *interior side lot line* that is also the location of the common wall; and,
 - b) A minimum of 2.0 metres from the *front and flankage lot lines*.
- 2. Where such equipment is installed at or above *grade*, the maximum height shall be 2.0 m measured from *grade* to the top of the air conditioner, heat pump, swimming pool pump, filter or heater. (2017-025)



Some architectural and building design features are permitted to project into minimum yards

General Provisions

4.4 Bed and Breakfast Establishment

Where a *bed and breakfast establishment* is permitted, the following regulations apply:

- a) A *bed and breakfast establishment* is only permitted within a *detached dwelling*.
- b) A *bed and breakfast establishment* shall have a maximum of three *lodging units* which shall in total not exceed a maximum of 30% of the *residential floor area* of the *detached dwelling*. For the purposes of this subsection, *residential floor area* shall include all area within a *basement*.
- c) A *bed and breakfast* shall be operated by the person or persons whose principal residence is the *detached dwelling* in which the *bed and breakfast establishment* is located.

Bed and breakfast establishments require a Town of Oakville Business Licence. Contact the Clerks Department for more information.

4.5 Detached Dwellings on a Lot

Unless otherwise specified by this By-law, no more than one *detached dwelling* is permitted on a *lot*.

4.6 Exceptions to Height Provisions

Unless otherwise required by this By-law, the following exceptions to the *height* and *storey* provisions of this By-law apply.

4.6.1 Measurement of Height

- a) The applicable *buildings, structures*, and features regulated by Section 4.6 of the By-law shall be measured from the top of the roof on which the applicable feature is directly situated. (2015-079)
- b) The applicable *buildings, structures*, and features regulated by Section 4.6 of the By-law shall not be subject to the minimum and maximum *height* and minimum and maximum number of *storeys* requirements of the applicable *zone*. (2015-079)

General Provisions

4.6.2 Buildings and Structures

The *height* provisions of this By-law shall not apply to:

- a) Ornamental architectural features such as, but not limited to, cupolas, finials, and weather vanes;
- b) *Buildings* primarily used for garbage containment;
- c) *Buildings* and *structures* used for agriculture;
- d) *Buildings* and *structures* associated with an *emergency services facility*;
- e) *Buildings* and *structures* associated with a *public works yard*;
- f) Chimneys;
- g) Flag poles;
- h) Light standards;
- i) Lightning rods;
- j) Monuments;
- k) Towers occupiable for access only in all *zones* except any Residential Zone such as clock towers and steeples; and, (2016-013)
- l) Water towers or tanks.
- m) *Parapets*, subject to Section 4.6.3; (2016-013)
- n) Rooftop mechanical equipment and *mechanical penthouses*, subject to Section 4.6.4; and, (2016-13)
- o) Skylights, subject to Section 4.6.5. (2016-013)

The features provided in subsections 4.6.2 to 4.6.5 are not subject to maximum height standards provided the feature complies with the regulations provided. Contact staff in the zoning section of the Building Services department for more information.

4.6.3 Parapets (PL140317)

A parapet is permitted to project above the top of a roof:

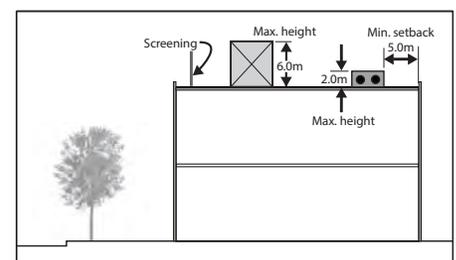
- a) To a maximum of 0.3 metres for any RL, RM1, RM2, or RM3 Zone; or
- b) To a maximum of 2.0 metres in all other Zones.

4.6.4 Rooftop Mechanical Equipment and Mechanical Penthouses

(2017-025)

The following provisions shall apply where rooftop mechanical equipment is provided on any *lot* not located in any Residential Low (RL) Zone and the Residential Medium (RM1) and (RM2) Zones:

- a)
 - i) A mechanical penthouse, including any appurtenances thereto, shall not exceed 6.0 metres in height.
 - ii) Rooftop mechanical equipment, including any appurtenances thereto, that exceeds 2.0 metres in height shall be fully enclosed within a *mechanical penthouse*.
 - iii) Architectural screening shall be required to screen rooftop mechanical equipment.
 - iv) Rooftop mechanical equipment shall be set back a minimum of 5.0 metres from all edges of a roof if it is not fully enclosed within a mechanical penthouse or screened by an architectural feature.
 - v) A mechanical penthouse is deemed not to be a *storey* for the purposes of this By-law. (2015-079)
- b) Where rooftop mechanical equipment is provided on any *lot* located in any Residential Low (RL) Zone or the Residential Medium (RM1 and RM2) Zones, architectural screening shall be required to screen rooftop mechanical equipment.



The size, location, and design of rooftop mechanical equipment is one of several issues that shall be reviewed at the Site Plan Approval stage.

General Provisions

4.6.5 Skylights and Cupolas (2017-025)

The following provisions shall apply to skylights and cupolas:

- a) A skylight shall not exceed 0.6 metres in height.
- b) The maximum dimensions of the roof opening for the skylight shall be 2.4 metres in length and 2.4 metres in width.
- c) The maximum surface area of the roof permitted to be occupied by skylights is 5%.
- d) The maximum dimensions of a cupola shall be 1.5 m in length, 1.5 m in width, and 1.5 m in height measured from the ridge of the roof where it is affixed. (2017-025)

4.6.6 Rooftop Terraces (PL140317)

The following provisions shall apply to rooftop terraces:

- a) A *rooftop terrace* is permitted on a lot in any *Zone*, except for Residential Low -0 Suffix Zones; (2018-017)
- b) A *rooftop terrace* is not permitted on the roof of a one *storey building* in any Residential Low and Residential Medium Zones; (2018-017)
- c) A *rooftop terrace* that is located on the roof of the top *storey* of a *building* shall be setback a minimum of 2.0 metres from the edge of the roof of that part of the *building* that faces the *interior side* and/or *rear lot lines* abutting any Residential Low Zone; (2018-017)
- d) No structures, excluding a *mechanical penthouse*, associated with a *rooftop terrace* are permitted on a lot in a RM1, RM2 or RM3 Zone;
- e) No structure on a *rooftop terrace* shall have walls;
- f) No structures on a *rooftop terrace* shall exceed 20% of the total area of the *rooftop terrace* and such structures shall not be deemed a *storey*;
- g) No access from grade shall be permitted to a *rooftop terrace*; and
- h) The outer boundary of a *rooftop terrace* shall be defined using a barrier having a minimum height of 1.2 metres.
- i) In Residential Low Zones a *rooftop terrace* is only permitted on the roof of the *first storey* of the *dwelling* having two or more *storeys*, subject to a maximum 1.5 m depth, measured from the *main wall*. (2018-017)

General Provisions

4.7 Garbage Containers

- a) Garbage containment shall be located within a *building* or fully enclosed *structure* in the following *zones* or where the following *uses* are being undertaken:
- i) Any Mixed Use *Zone*;
 - ii) Office Employment (E1) *Zone*;
 - iii) *Apartment dwellings*;
 - iv) *Back-to-back townhouse dwellings* in a Plan of Condominium only; and,
 - v) *Stacked townhouse dwellings*.
- b) Garbage containment shall be located within a *building*, fully enclosed *structure*, or *garbage enclosure* in the following *zones* or where the following *uses* are being undertaken:
- i) Any Commercial *Zone*;
 - ii) Any Employment *Zone* not listed in subsection (a) above;
 - iii) Any Institutional (I) and Community Use (CU) *Zone*;
 - iv) Any Private Open Space (O2) *Zone*; and,
 - v) Where garbage containment is associated with any other *dwelling* not listed in subsection (a) above located in a Plan of Condominium.
- c) A *building* primarily used for garbage containment or a *garbage enclosure* shall not be located:
- i) In a *front yard*;
 - ii) Between the *main wall* closest to the *flankage lot line* and the *flankage lot line* in a *flankage yard*;
 - iii) In any *minimum yard* abutting a Residential *Zone*; and,
 - iv) Within any *landscaping coverage* or width of *landscaping* required by this By-law.
- d) Notwithstanding subsections (a), (b), and (c) above, a garbage container temporarily provided for any construction, demolition, or site alteration works is permitted anywhere on a *lot*. (2015-018)
- e) Requirements for garbage containment within a *building* shall not apply to prevent temporary storage for the purposes of scheduled pickup and removal. (2015-079)

A “*building*” can be the main building or an accessory building. A fully enclosed structure requires complete sides and a cap to meet the requirements of this By-law. The only openings should be lids or flaps allowing garbage to pass through.

4.8 Highway Corridor Setback

Notwithstanding any other provision of this By-law, all *buildings* and *structures* and the following features shall be setback a minimum of 14.0 metres from the *lot line* abutting the boundary of the *highway corridor*:

- a) Any minimum *parking space*, including a *barrier-free parking space*, *bicycle parking space*, or *stacking space*;
- b) Any *loading space*;
- c) Any *aisle* leading to any of the features listed in subsections (a) and (b) above; and,
- d) *Stormwater management facility*.

A map showing the approximate limits of the highway corridor is attached as Appendix B to this By-law. Contact Building Services or the Corridor Management Section of Ontario’s Ministry of Transportation to confirm if your property is adjacent to the highway corridor.

General Provisions

4.9 Home Occupations

Where a *home occupation* is permitted, the following regulations apply:

- a) A *home occupation* shall be conducted entirely within the *dwelling*.
- b) A *home occupation* shall be operated by the person or persons whose principal residence is the *dwelling* in which the *home occupation* is located.
- c) A *home occupation* shall have no one other than a resident of the *dwelling* engaged in the *home occupation*.
- d) A *home occupation* shall occupy a maximum of 25% of the *residential floor area* of the *dwelling*, up to a maximum of 50.0 square metres. For the purposes of this subsection, *residential floor area* shall include all area within a *basement*.
- e) *Outside storage* and *outside display and sales areas* are not permitted.
- f) Advertising or signs are not permitted to be displayed on the *lot*.
- g) Only the following *uses* are permitted to be undertaken:
 - i) *Art gallery*;
 - ii) *Business office*;
 - iii) *Commercial school*, however music instruction shall only be permitted in a detached dwelling;
 - iv) *Medical office*; and,
 - v) *Service commercial establishment*.

Some uses permitted as a home occupation may require a Town of Oakville Business Licence, or a safety inspection by Halton Region. Contact the Clerks Department for more information.

4.10 Infrastructure

- a) *Infrastructure* shall be permitted in all *zones*, except for the Natural Area N, Greenbelt GB, and Parkway Belt Public Use PB1 *Zones* where *infrastructure* is permitted only if it is a lateral connection providing service to a *lot* or if it is located within one of:
 - i) An existing corridor containing *infrastructure*;
 - ii) A *public road*; or,
 - iii) A future *public road* or corridor for which an Environmental Assessment has been completed or a Planning Act approval has been received.
- b) Any *building* or *structure* used for the purpose of providing or sheltering *infrastructure* shall be exempt from the regulations of the *zone* within which it is located, except for the provisions of Section 8.4 of this By-law.

General Provisions

4.11 Landscaping

4.11.1 Calculations for Determining Landscaping

- a) To qualify for any minimum *landscaping coverage* or minimum width of *landscaping* requirement of this By-law, an individual area of *landscaping* provided on a *lot* shall contain an area with minimum dimensions of 3.0 metres by 3.0 metres and may include additional area of lesser dimensions provided the additional area is contiguous to the 3.0 metres by 3.0 metres area. (PL140317)
- b) Notwithstanding subsection (a) above, where two widths of *landscaping* are required abutting each other, the minimum width of *landscaping* required may be reduced by up to 1.0 metre.
- c) *Landscaping* required by Section 4.11.2 of this By-law shall count toward any minimum *landscaping coverage* requirement of this By-law.
- d) A *driveway*, *aisle*, or walkway may cross required *landscaping*, but the area that is crossed by the *driveway*, *aisle*, or walkway shall not count towards the calculation of required *landscaping coverage*.
- e) *Landscaping* provided on the roof of a *building* shall be included in the calculation of required *landscaping coverage* on the *lot*, provided it meets the requirements of subsection (a) above.
- f) Where a conflict exists between two different *landscaping* requirements in this By-law (except for any requirement specified in Part 15 of this By-law), the provision requiring the greater amount of *landscaping* shall apply.

Subsection (d) provides some flexibility to permit walkways within a width of landscaping. Orientation, layout, and width shall be reviewed at the Site Plan Approval stage.

General Provisions

4.11.2 Required Widths of Landscaping (PL140317)

A continuous area of *landscaping* parallel to and following the entire specified *lot line* or the edge of the identified feature shall be required as provided in Table 4.11.2, below:

Table 4.11.2: Required Widths of Landscaping by Zone (PL140317)			
1	2	3	4
A	Zone, Use, Lot or Feature	Along any Lot Line Abutting or Along the Edge of the Feature Abutting	Minimum Width
Landscaping by Zone and Use			
1	<ul style="list-style-type: none"> Residential Medium (RM4) Zone Residential High (RH) Zone 	<ul style="list-style-type: none"> Any Residential Low Zone Residential Medium (RM1), (RM2), and (RM3) Zones 	3.0 m
2	<ul style="list-style-type: none"> Central Business District CBD Zone Main Street 1 (MU1) Zone Main Street 2 (MU2) Zone 	<ul style="list-style-type: none"> Any Residential Zone Institutional (I) Zone Community Use (CU) Zone 	3.0 m
3	<ul style="list-style-type: none"> Urban Centre (MU3) Zone Urban Core (MU4) Zone 	<ul style="list-style-type: none"> Any Residential Zone Institutional (I) Zone Community Use (CU) Zone 	7.5 m
4	<ul style="list-style-type: none"> Any Commercial Zone Any Employment Zone 	Any road	3.0 m (1)
5	<ul style="list-style-type: none"> Any Commercial Zone Any Employment Zone 	<ul style="list-style-type: none"> Any Residential Zone Community Use (CU) Zone Any residential use in an Institutional (I) Zone Any residential use in any Mixed Use (MU) Zone 	7.5 m
6	<ul style="list-style-type: none"> Any Commercial Zone Any Employment Zone 	Institutional (I) Zone, excluding any residential use	3.0 m
7	<p>Notwithstanding rows 5 and 6 of Table 4.11.2, any Employment Zone with the following use(s):</p> <ul style="list-style-type: none"> Bulk storage facility Manufacturing Outside Processing Outside Storage Waste processing station Waste transfer station Motor vehicle storage compound Heavy vehicle parking area Transportation terminal 	Any interior side lot line and rear lot line of any use in any Zone, with the exception of those Employment Zone uses listed in column 2 of row 7 and railway corridors	7.5 m
8	<ul style="list-style-type: none"> Institutional (I) Zone Community Use (CU) Zone 	Any lot line	3.0 m

General Provisions

1	2	3	4
A	Zone, Use, Lot or Feature	Along any Lot Line Abutting or Along the Edge of the Feature Abutting	Minimum Width
Surface Parking Areas			
9	Any <i>surface parking area</i>	Any <i>road</i>	3.0 m
10	Any <i>surface parking area</i> , except within an <i>Employment Zone</i>	Any <i>interior side lot line</i> or <i>rear lot line</i>	3.0 m
11	Any <i>surface parking area</i> within an <i>Employment Zone</i>	Any <i>interior side lot line</i>	3.0 m
12	Any <i>surface parking area</i>	Any <i>lot</i> with a <i>residential use</i>	4.5 m
Yards Abutting Identified Corridors			
13	Any <i>yard</i> on a <i>lot</i>	Any <i>railway corridor</i> , excluding <i>railway spur lines</i>	4.5 m

Additional Regulations for Required Widths of Landscaping

Table 4.11.2

1. In the Neighbourhood Commercial (C1) *Zone*, the width of *landscaping* shall only be required where the *building* is set back a minimum of 3.0 metres from the street.

4.11.3 Motor Vehicle Dealership Displays

(PL140317)

Notwithstanding Table 4.11.2, on a lot used as a motor vehicle dealership or motor vehicle rental facility, a maximum of two hardscaped surfaces are permitted in place of a required width of landscaping, provided that:

- a) The maximum area of an individual hardscaped display surface shall be 21.0 square metres;
- b) The maximum height of an individual hardscaped surface and all inventory located on the hardscaped surface shall be 6.75 metres, measured from grade; and,
- c) The maximum height of an individual hardscaped surface and all inventory located on the hardscaped surface where the hardscaped display surface is located within 2.0 metres of a driveway shall be 1.0 metre, measured from grade.

4.12 Legal Non-Conformity

4.12.1 Legal Existing Buildings and Structures

(deleted by OMB, PL140317)

4.12.2 Legal Existing Lots

A *lot* in existence prior to the effective date of this By-law that does not meet the minimum *lot area* or *lot frontage* requirements of the applicable *zone* is permitted to be *used* and *buildings* and *structures* thereon be erected, enlarged, repaired, or renovated provided the *use* conforms with the By-law and the *buildings* and *structures* comply with all other provisions of the By-law.

If a lot or feature is undersized, a landowner can bring a lot closer to compliance (i.e. add more land to the lot, add more parking spaces) and still take advantage of these non-conformity clauses. Contact a zoning officer in Building Services for more information.

General Provisions

4.12.3 Legal Existing Uses

Nothing in this By-law applies to prevent the *use* of any land, *building*, or *structure* for any purpose prohibited by this By-law if such land, *building*, or *structure* was lawfully *used* for such purpose on the day of the passing of the By-law, provided it continues to be *used* for that purpose.

4.12.4 Acquisition by a Public Authority

- a) No existing *lot*, *building* or *structure* shall be deemed to have come into contravention with any regulations or provisions of this By-law by reason that any part or parts of the *lot* has or have been conveyed to or acquired by any *public authority*.

This provision shall not apply where the conveyance of any part or parts of the *lot* to any *public authority* is required as a condition of an approval required for the creation of a *lot*, or where the construction of a new *building* or *structure* or addition to a *building* would further increase the extent or degree of non-conformity.

- b) Where subsection (a) above applies and a new *building* or *structure* is proposed:
- i) *Lot area*, *lot depth*, *lot frontage*, and *lot coverage* shall be calculated using the original lands conveyed to or acquired by the *public authority*; and,
 - ii) All other regulations shall be calculated using the remaining lands not conveyed to or acquired by the *public authority*.

4.13 Lot Frontage Requirements

No person shall erect any *building* or *structure* or *use* any *building*, *structure*, or *lot* unless the *lot* meets one or more of the following requirements:

- a) The *lot* has *frontage* on a *public road* which is assumed by By-law by a *public authority*;
- b) The *lot* will have *frontage* on a future *public road* that is currently being constructed pursuant to a Subdivision Agreement or other Development Agreement with a *public authority*;
- c) The *lot* is legally tied to a *common element condominium* having *frontage* on a *condominium common element roadway* which provides direct access to a *public road* or which connects with another *condominium common element roadway* having access a *public road*;
- d) The *lot* will be legally tied to a *common element condominium* having *frontage* on a future *condominium common element roadway* that is currently being constructed pursuant to a *Condominium Agreement* or other Development Agreement with a *public authority* which provides direct access to a *public road* or which connects with another *condominium common element roadway* having access a *public road*; or,
- e) For a *lot* that legally existed on the effective date of this By-law, the *lot* has access to a *private road* that legally existed on the effective date of this By-law.
- f) Notwithstanding subsection (a) above, a *lot* used for a *stormwater management facility* or *major transit station* is not required to have *frontage* on a *public road*. (2017-025)

Should the Town, Region, or Province require land as part of a road widening or approval, this clause would be relied upon to ensure the affected lot remains compliant with the Zoning By-law. All regulations of this By-law are covered by this Section including yards, parking, and landscaping.

Staff would review planning applications to ensure known future land acquisitions are accounted for in the review stage. Contact a planner in the Planning Services department for more information.

General Provisions

4.14 Municipal Services Required

- On lands subject to this By-law south of Dundas Street, no *building* may be erected or enlarged unless the land is serviced by municipal water and sewage systems.
- On lands subject to this By-law north of Highway 407, no *building* may be erected or enlarged unless the requirements for service connections defined by the Ontario *Building Code* have been granted.

4.15 0.3 m Reserves

- For the purposes of this By-law, a 0.3 m reserve shall be considered to be part of the abutting *road*.
- Notwithstanding subsection (a) above, a 0.3 m reserve shall be considered to be part of the *lot* for all lands on Map 19(22a).

4.16 Outdoor Swimming Pools and Hot Tubs

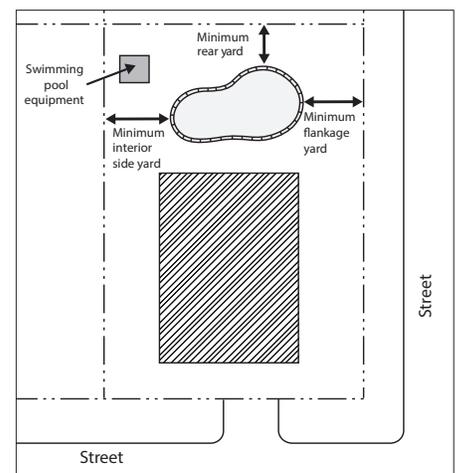
4.16.1 Residential Uses

Where an outdoor swimming pool or hot tub is provided *accessory* to a residential *use*, the following regulations apply:

- If located in the *rear yard* or *interior side yard*, the swimming pool or hot tub shall be set back 1.5 metres from the applicable *lot line*.
- In the case of a *corner lot*, the swimming pool or hot tub shall be set back 3.5 metres from the *flankage lot line*.
- The swimming pool or hot tub shall not be located in a *front yard*.
- The maximum *height* of a swimming pool or hot tub shall be 1.5 metres above *grade*.
- All setbacks shall be measured to the water's edge.

4.16.2 All Other Uses

Where an outdoor swimming pool or hot tub is provided *accessory* to any other *use*, the minimum *yards* for the applicable *zone* shall apply and shall be measured to the water's edge.



Setbacks for pools and hot tubs are equal those of the parent zone and are measured to the water's edge.

See Table 4.3 for allowable projections for swimming pool pumps, filters, heaters and appertenances to those.

General Provisions

4.17 Outside Display and Sales Areas

4.17.1 Permanent Display and Sales Areas (2016-023)

Where an *outside display and sales area* is permitted, the following regulations apply:

- a) An *outside display and sales area* shall be accessory to another permitted *use*.
- b) The maximum *height* of any merchandise display in an outside display and sales area not located within a *building* or *structure* is 3.0 metres. (2015-018)
- c) An *outside display and sales area* shall not be located within any *minimum yard*, *minimum parking space*, *loading space*, *required landscaping*, and *sight triangle*.
- d) An *outside display and sales area* shall be located with its longest dimension abutting the *main wall* of its associated *building*. This subsection shall not apply for *motor vehicle dealerships* or the accessory sale of *motor vehicles*.

4.17.2 Seasonal Garden Centres (2016-023)

The following provisions apply to *seasonal garden centres*:

- a) A *seasonal garden centre* is only permitted *accessory* to a *retail store* on the same *lot*;
- b) A *seasonal garden centre* shall only be permitted within a *parking area* and cannot occupy more than 10% of the total number of *parking spaces* in the applicable *parking area* for a maximum of 17 weeks in any calendar year;
- c) A *seasonal garden centre* can occupy any *aisle* shared by two rows of *parking spaces* otherwise occupied by the *seasonal garden centre*;
- d) Section 5.1.2 of this By-law shall not apply to prohibit the occupation of *parking spaces* or *aisles* by a *seasonal garden centre* established in compliance with Section 4.17.2 of this By-law;
- e) No *parking spaces* shall be required for a *seasonal garden centre*; and,
- f) The maximum *height* of any merchandise display or fixture not located in a *building* or *structure* in a *seasonal garden centre* located within a *parking area* is 2.4 metres.

4.18 Patios

Patios are permitted accessory to any *public hall* or *restaurant*, subject to the *minimum yards* for the *zone* in which it is located. The following additional regulations apply:

- a) *Patios* are not permitted in any *yard* abutting a *Residential Zone*.
- b) *Patios* are not permitted on a *balcony* or *rooftop terrace* on any *lot* abutting a *Residential Zone*. (PL140317)
- c) *Patios* shall be considered as *floor area* and *net floor area* when calculating parking requirements in accordance with Section 5.1.1 (b) of this By-law. (2015-018)
- d) *Patios* shall not be permitted on a *lot* in any *Employment Zone* abutting a *lot* in any *Residential Zone*.

General Provisions

4.19 Pipeline Setbacks

4.19.1 Enbridge Pipelines

- a) Notwithstanding any other provision of this By-law, no *building* or *structure* associated with a *dwelling* shall be located any closer than 3.0 metres from the limit of the Enbridge Pipeline right-of-way.
- b) Section 4.19.1(a) shall only apply where the right-of-way is located outside of an electricity transmission corridor.

A map showing the approximate limits of the pipeline corridors is attached as Appendix C to this By-law. Contact Building Services to confirm if your property is adjacent to the railway corridor.

No additional setback is required from the Trans-Northern Pipeline right-of-way.

4.19.2 Sarnia Products/Imperial Oil Pipelines

Notwithstanding any other provision of this By-law, no *building* or *structure* with *dwellings* intended for human occupancy shall be located any closer than 20.0 metres from the centerline of the Sarnia Products/Imperial Oil Pipeline. (2017-025)

Contact the applicable pipeline owner before digging for information about construction or applicable permitting requirements.

4.19.3 TransCanada Pipelines

- a) Notwithstanding any other provision of this By-law, no *building* shall be located any closer than 7.0 metres from the limit of the TransCanada Pipeline right-of-way.
- b) Notwithstanding any other provision of this By-law, no *accessory structure*, outdoor swimming pool, or hot tub shall be located any closer than 3.0 metres from the limit of the TransCanada Pipeline right-of-way.

4.19.4 Trans-Northern Pipelines

No additional setback is required from the Trans-Northern Pipeline right-of-way.

4.19.5 Union Gas Pipelines

Notwithstanding any other provision of this By-law, no *building* or *structure* shall be located within any Union Gas Pipeline easement.

General Provisions

4.20 Prohibited Uses

For clarity, the following *uses* are not considered to be part of any *use* permitted by this By-law:

- a) The refining, storage or *use* in manufacturing of coal oil, rock oil, water oil, naphtha, benzene, dynamite, dualine, nitroglycerin, or gunpowder, except where specifically permitted for commercial purposes. This provision shall not apply to prevent the above ground storage of such substances by a farmer, where such storage is incidental and accessory to *agriculture*, or the *use* of natural gas, propane or fuel oil for purposes such as heating and cooking, in conjunction with any *use*;
- b) The tanning or storage of uncured hides or skins;
- c) The boiling of blood, tripe, or bones for commercial purposes;
- d) The manufacturing of glue or fertilizers from dead animals or from human or animal *waste*;
- e) A livestock yard, livestock exchange, or dead stock *yard*;
- f) The extracting of oil from fish;
- g) A track for the driving, racing or testing of any motorized vehicle;
- h) A disposal site for solid *waste*;
- i) *Mobile homes, motor vehicles, or recreational vehicles and trailers* occupied as a permanent residence; and,
- j) Large scale *outside storage* of road salt, road sand or other de-icing materials.

4.21 Railway Setbacks for Sensitive Land Uses

Notwithstanding any other provisions in this By-law, all *buildings and structures* containing a *dwelling, place of worship, day care, private school, or public school* shall be located no closer than 30.0 metres from any *railway corridor*.

A map showing the approximate limits of the railway corridor is attached as Appendix B to this By-law. Contact Building Services to confirm if your property is adjacent to the railway corridor.

4.22 Shipping Containers

- a) *Shipping containers* shall only be permitted on a *lot* where *outside storage* is a permitted *use*.
- b) A *shipping container* shall only be *used* as a *building* in conjunction with the following *uses*:
 - i) *Manufacturing*;
 - ii) *Transportation terminal*; and,
 - iii) *Warehousing*.

General Provisions

4.23 Short-Term Accommodation

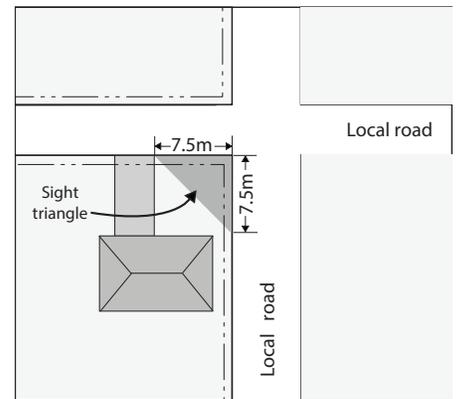
Where a *short-term accommodation* is permitted, the following regulations apply:

- a) A *short-term accommodation* is permitted in *dwelling*s permitted by the applicable zone, including an *accessory dwelling*.
- b) A *short-term accommodation* shall be operated by the person or persons whose principal residence is the *dwelling* in which the *short-term accommodation* is located. For the purpose of this provision, the principal residence of an *accessory dwelling* shall be deemed to be the principal residence of the main *dwelling unit* on the lot.

4.24 Sight Triangles

4.24.1 Applicability

- a) A *sight triangle* shall be required only where no triangular or curved area of land abutting a *corner lot* has been incorporated into the right-of way of a *public road*, and only in the following *zones* or combination of *zones*:
 - i) Any Residential Zone
 - ii) Any Commercial Zone;
 - iii) Any Employment Zone;
 - iv) Any Institutional (I) and Community Use (CU) Zone;
 - v) Any Open Space Zone; and,
 - vi) Only at the intersection of any two *Arterial Roads* in any Mixed Use Zone.
- b) Notwithstanding subsection (a) above, no *sight triangle* shall be required on a *lot* occupied by a *townhouse dwelling* or *back-to-back townhouse dwelling*.



No buildings or structures are permitted in a sight triangle.

4.24.2 Size

Notwithstanding any other provision of this By-law, no *building* or *structure*, fence, wall, *driveway*, vegetative planting or *landscaping* that has a *height* of greater than 1.0 metre shall be permitted in a *sight triangle* according to the provisions of Table 4.24, below:

Intersection of:	<i>Local Road</i>	<i>Collector Road</i>	<i>Arterial Road</i>
<i>Local Road</i>	7.5 m	7.5 m	15.0 m
<i>Collector Road</i>		15.0 m	15.0 m
<i>Arterial Road</i>			15.0 m

General Provisions

4.25 Temporary Uses

The following temporary *uses* are permitted in all *zones*:

4.25.1 Construction Uses

Notwithstanding any other provision of this By-law, *uses* incidental to construction such as a construction camp or other such temporary work camp, a tool shed, a scaffold or other *building* or *structure* incidental to the construction, and the parking or storage of any construction equipment or construction vehicle are permitted, subject to the following provisions:

- a) Such *uses* shall be permitted only for so long as the same are necessary for work in progress that has neither been finished nor discontinued for a period of 60 days;
- b) A valid *building* permit or site alteration permit for the construction remains in place, if such a permit was required; and,
- c) *Uses* incidental to construction may be undertaken on the *lot* prior to the erection of the main *building*, provided it is used for no purpose other than storage.

A temporary building occupied by any use permitted by this By-law while a permanent or main building is undergoing renovation is not subject to this general provision. All other requirements of this By-law, including zone standards and parking requirements, would continue to apply.

4.25.2 Model Homes

Model homes are permitted on lands that have received draft plan of subdivision or *condominium* approval for residential purposes provided that:

- a) The number of *model homes* does not exceed 20 units or 10% of the *dwelling units* draft approved in the plan of subdivision or *condominium* whichever is the lesser;
- b) The *model home* is built within a *lot* defined by the draft approved plan of subdivision or *condominium*;
- c) The *model home* complies with all other requirements of this By-law for the applicable type of *dwelling unit* with the exception of the parking requirements; and,
- d) The *buildings* are used for the purpose of *model homes* only and shall not be occupied prior to the date of registration of the subdivision, *condominium*, or similar development agreement.

4.25.3 Temporary Sales Offices

(2017-025)

Temporary sales offices for the sale of residential, employment or commercial *lots* or units or rental thereof in a plan of subdivision or *condominium* are permitted, subject to the following provisions:

- a) The temporary sales office shall not be permitted until an applicable plan of subdivision or *condominium* has received draft plan approval or the property is in a *zone* that permits the proposed development.
- b) The temporary sales office shall only be permitted for such period that work within a relevant plan of subdivision or *condominium* remains in progress, having not been finished or discontinued for 60 days.
- c) The temporary sales office shall comply with the minimum *yards* for the applicable *zone*.
- d) If *parking spaces* are provided, the temporary sales office shall comply with the parking provisions of this By-law.
- e) The temporary sales office is located in the plan of subdivision or *condominium* where the *lots* or units are being sold.

Depending on the concept, a sales office could be permitted as a business office in various zones. Contact Planning Services for more information.

General Provisions

4.26 Emergency Shelters

(PL140317)

Where an *emergency shelter* is permitted, the following regulations apply:

- a) *Emergency shelters* are prohibited on a *local road* unless it is *accessory* to a *place of worship*;
- b) *Emergency shelters* are prohibited within 120.0 metres of an Industrial (E3) *Zone*; and,
- c) The maximum number of beds permitted in an *emergency shelter* is 20.

SECTION 2 GENERAL PROVISIONS

The General Provisions of this By-law shall apply to all zones unless specifically stated otherwise.

2.1 Accessory Buildings and Structures

Buildings and structures accessory to a permitted use are permitted in all zones, except the Conservation / Natural Area (G1) Zone and except as noted elsewhere in this By-law, shall not:

- a) Be used as a dwelling unit;
- b) Be located in a required front yard or exterior side yard;
- c) Be located within any sight triangle;
- d) Exceed a building height of 4.5 m;
- e) Exceed 10% of the total lot area, excluding in-ground swimming pools; and
- f) Be located less than 0.6 m from an interior side or rear lot line.

2.1.1 Detached Garage

A detached garage shall be located at least 1 m further distant from the front lot line than the front wall of the dwelling.

2.1.2 Multi-Level Accessory Parking Structures

A multi-level accessory parking structure shall comply with the applicable principal use requirements of this By-law.

2.2 Accessory Uses to a Dwelling

2.2.1 Interior Accessory Dwelling Unit

One interior accessory dwelling unit is permitted in any detached dwelling, semi-detached dwelling unit or townhouse dwelling unit provided the following:

- a) The interior accessory dwelling unit is entirely within the exterior walls of the principal dwelling unit;
- b) The floor area of the interior accessory dwelling unit shall not exceed 60 m² or 40% of the floor area of the dwelling unit (including the basement) excluding an attached garage, whichever is less; and
- c) The lot complies with all other provisions of this By-law.

Interior accessory dwelling unit is not permitted in a Private Road Development.

2.2.2 Detached Accessory Dwelling

Where permitted by Section 13 Special Provision, a detached accessory dwelling unit shall be subject to Section 2.1 b) to f), Section 2.1.1, and the following provision:

- a) The floor area shall not exceed 105 m² or 40% of the floor area of the principal dwelling unit (including the basement), whichever is less;

2.2.3 One Accessory Dwelling Unit

One accessory dwelling unit, either interior or detached, is permitted per principal dwelling unit.

2.2.4 Home Based Business

A home based business is permitted in any zone within a principal dwelling unit (including the use of an attached garage), accessory structures thereto, and within an interior accessory dwelling unit, subject to the following regulations:

- a) Uses that are not permitted:
 - i. automotive related uses
 - ii. small engine repair
 - iii. kennel
 - iv. restaurant
 - v. nightclub
 - vi. animal care establishment
- b) No machinery or processes which emit noise, vibration, glare, fumes, odour, dust, radio, television or telecommunication transmission interference beyond the premises are permitted in conjunction with a home based business;
- c) More than one home based business may exist within a principal dwelling unit (including attached garage) and accessory structures thereto, and a home based business may be segmented between the above, provided that the total cumulative size of the home based business or businesses does not exceed 25% of the gross floor area of the principal dwelling unit (excluding attached garage and accessory structures), to a maximum of 40 m².

In addition to the above, a home based business or businesses is permitted in an interior accessory dwelling unit provided that the business or businesses do not exceed 25% of the total gross floor area of the interior accessory dwelling unit;

- d) Outside activities are permitted but there shall be no outdoor storage associated with a home based business;
- e) The home based business shall be conducted by a person(s) residing in the principal dwelling unit and/or a detached accessory dwelling unit, and may include one non-resident employee or volunteer or assistant at any one time for all of the home based businesses located in the principal dwelling unit (including attached garage) and/or accessory structures.

A home based business located in an interior accessory dwelling unit is not permitted to have a non-resident employee, volunteer or assistant other than a resident of the principal dwelling unit or a detached accessory dwelling unit thereto;

- f) The sale of goods that are incidental to a home based business shall be permitted;
- g) One sign for all home based businesses located on the premises is permitted in accordance with the City's Sign By-law No. 2012-154, as amended;
- h) The total cumulative number of on-site clients or attendees of lessons, classes, instruction, treatment or service provided by a home based business or businesses located in a principal dwelling unit and dwelling units and structures accessory thereto shall be limited to a maximum of 5 at any one time, and no more than a total of 20 over a consecutive 24 hour period; and

- i) The residential appearance and character of the premises shall be maintained.

2.2.4.1 Bed and Breakfast

A bed and breakfast is permitted within a detached dwelling and/or detached accessory dwelling subject to Section 2.2.4 and the following additional regulations:

- a) Despite Section 2.2.4. c), a maximum of 4 rental rooms are permitted; and
- b) The bed and breakfast shall provide meals to guests of the bed and breakfast only.

2.2.4.2 Home Daycare

A home daycare is permitted subject to Section 2.2.4 and the following:

- a) The maximum number of non-resident persons being supervised is five;
- b) Section 2.2.4 c) does not apply.

2.3 Buildings on One Lot

Except where otherwise permitted in Private Road Developments only one principal building of the following types shall be permitted on one lot:

- a) A detached dwelling;
- b) A semi-detached dwelling;
- c) A duplex dwelling;
- d) A triplex dwelling;
- e) A fourplex dwelling; or
- f) A quadruplex dwelling.

2.4 Common Walls on Lot Lines

There is no minimum interior side yard and/or rear yard for common walls

2.5 Corner Lot Sight Triangle

Unobstructed sight triangles are required on all corner lots in all zones.

The area within a corner lot sight triangle shall be determined by measuring from the point of intersection of the front and exterior side lot lines on a corner lot to a point along each such lot line as set out in the following table, and joining such points with a straight line.

Zone	Minimum Distance along Each Lot Line from Corner
Residential Zones	6 m
All Other Zones	7.5 m

2.6 Lot Frontage on Public Roads

- a) No person shall develop or construct a building or structure or otherwise use any lot unless the lot fronts on a public road.
- b) Subsection a) does not apply to a lot used for:

- i. A utility installation;
- ii. A cemetery;
- iii. A conservation/natural area.

c) Lot frontage shall be measured:

- i. 6 m from the front lot line and parallel to the front lot line; or
- ii. 6 m from the chord and parallel to the chord if the front lot line is a curve.

2.7 Height

2.7.1 Where Height is Measured

Height is measured from the grade at the principal entrance of the building.

2.7.2 How Height is Measured

a) For a Principal Building:

- i. From the grade at the principal entrance to the mid-point between the eaves and the ridge of a pitched roof, or the highest point of the roof surface of a flat roof.

b) For an Accessory Building and Structure

- i. In Residential Zones – from the grade to the highest point of the roof.
- ii. In all other zones – mid-point between the eaves and the ridge of a pitched roof or the highest point of the roof surface of a flat roof.

2.7.3 Height Exceptions

The height regulations of this By-law shall not apply to spires, water tanks, chimneys, flag poles, communication towers, skylights, roof top mechanical equipment or elevator enclosures.

2.8 Operating Apparatus

The following provisions shall apply to all Residential zones and lots abutting a Residential zone. Operating apparatus shall:

- a) Be setback a minimum of 0.6 m from any rear and side lot line; and
- b) Be permitted in a front yard, and setback no greater than 0.5 m from the front building wall.

2.9 Outdoor Storage

Except where otherwise noted, outdoor storage and garbage storage areas shall only be permitted in an interior side yard or a rear yard.

2.10 Permitted Encroachments

Except where otherwise permitted in this By-law every part of any required yard for a building or structure shall be open and unobstructed from the ground to the sky except for:

2.10.1 General Structures

Structure Type	Yard Permitted	Maximum Encroachment Into the Required Yard
Eaves and Gutters	All	to be within 0.15 m of the lot line
Uncovered Stairs or Ramps to first Storey	All	to lot line
Chimneys	All	0.6 m

Fire Escapes and Exterior Staircases, including a Landing	Interior side, Exterior side, Rear	1.2 m
Cantilever – Walls or Windows	All	0.3 m and no greater than 50% of the total area of the wall facade
	Front and Rear	0.6 m and no greater than 25% of the total area of the wall facade

2.10.2 Platform Structure (Deck, Porch, Balcony, Patio)

	Height of Platform		
	Height above the grade from 0.15 m to 0.6 m *	Height above the grade more than 0.6 m and less than 1.2 m	Height above the grade 1.2 m or greater
Minimum Setback from Exterior Side Lot Line **	3 m	3 m	Required exterior yard of principal building
Minimum Setback from Interior Side Lot Line **	Required interior side yard of principal building		
Minimum Setback from Rear Lot Line **	1.8 m	3 m	4.5 m
Minimum Setback from Front Lot Line **	3 m	3 m	Required front yard of principal building
Maximum Area **	50% of the yard in which it is located	50% of the yard in which it is located	30 m ²

* A Platform Structure less than 0.15 m above grade is defined as Landscaped Open Space.

** For private road development, the maximum setback from a specified lot line, and maximum area, as set out in the table above, will be taken as the minimum setback and maximum area in the corresponding yard for the individual dwelling unit.

2.10.3 Enclosed Structures

Any enclosed platform structure, enclosed steps, or enclosed barrier-free ramps are deemed to be part of the building to which they are attached and shall meet all required yards.

2.10.4 Unenclosed Structures

Unenclosed and uncovered barrier-free ramps shall be permitted to encroach into any yard.

2.11 Temporary Buildings and Structures

Despite any other provisions of this By-law, lots may be used for buildings or structures constructed or used for a temporary period for a construction camp, construction trailer, sales trailer, scaffold or other building or structure incidental to ongoing construction on the lot which has neither been finished nor abandoned.

2.12 Model Homes

Model homes shall be permitted subject to the following provisions:

- a) The lands on which the model homes are to be constructed have received draft plan approval; and
- b) The location of the model homes shall comply with the provisions of this By-law upon registration of the plan of subdivision; and
- c) The number of model homes for any draft approved plan of subdivision shall not exceed the lesser of six (6) dwelling units or 10% of the total number of draft approved lots.

2.13 Community Garden

A Community Garden shall be permitted in all zones except the Conservation/Natural Area (G1) Zone, subject to Section 1.1.3 and Section 2.19.

2.14 Playground and Trails

- a) A Playground shall be permitted as an accessory use in all zones, except the Conservation / Natural Area (G1) Zone.
- b) Trails shall be permitted in all zones, subject to Section 1.1.3 and Section 2.19 where applicable.

2.15 Non-Complying Buildings and Lots

In addition to the following, Section 1.1.3 shall also apply.

2.15.1 Existing Lots

Despite the provisions of this By-law to the contrary, a lot held in separate ownership from adjoining parcels on the date of the passing of this By-law or a lot as shown on any plan of subdivision registered prior to the passing of this By-law, that is zoned to permit a detached dwelling but is not in compliance with the minimum lot frontage and/or minimum lot area requirements of this By-law, may be used for a detached dwelling provided that all other provisions in this By-law are met.

2.15.1.1 Existing Lots – Transition

Despite Section 2.15.1 above, this By-law does not prevent the issuance of a building permit on a lot held in separate ownership from adjoining parcels on the date of the passing of this By-law or a lot as shown on any plan of subdivision registered prior to the passing of this By-law, that is not in compliance with the minimum lot frontage and/or minimum lot area requirements of this By-law, for any purpose permitted in this By-law in the zone applicable for that lot, provided that all other provisions in this By-law are met, provided that all other provisions in this By-law are met, and where the building permit has been issued on or before October 15, 2018.

2.15.2 Lots Reduced by Public Acquisition

Where the area of a lot is reduced by means of an acquisition by a public agency and where such acquisition causes the lot or any building or structure existing lawfully on the lot on the date of such acquisition not to comply with the requirements of this By-law, the lot and/or any building(s) or structure(s) shall be deemed to comply with this By-law.

A building or structure may be constructed on a lot as so reduced, subsequent to the date of such acquisition, provided that all other provisions of this By-law are met.

Where a required yard has been reduced through such acquisition nothing shall prevent an addition to a building or structure, as long as the addition does not further reduce the established yard.

2.15.3 Rebuilding

Nothing in this By-law shall apply to prevent the restoration, repair, renovation or the replacement of any lawfully constructed building or structure existing prior to the passing of this By-law, provided that such restoration, repair, renovation or replacement will not increase the height, size, volume or change the use of such building or structure unless in compliance with this By-law.

2.15.4 Lots Deemed to Comply

Where a lot is created to permit the conveyance of a semi-detached, street townhouse or quadruplex dwelling unit, the lot shall be deemed to comply with the minimum landscaped open space, maximum lot coverage for accessory structures, and maximum residential parking coverage and driveway width requirements of this By-law as long as the original lot subject to the conveyance complied with these provisions prior to creation of the new lot.

2.16 Non-Conforming Uses

- a) This By-law shall not prevent the use of any lot, building or structure for any purpose prohibited herein if such lot, building or structure was lawfully used for such purposes on the day of the passing of this By-law provided that such lot, building or structures continues to be used for that purpose.
- b) This By-law shall not prevent the construction or use for a purpose prohibited herein of any building or structure for which a building permit has been issued and not revoked in accordance with the Building Code Act 1992 prior to the day of the passing of this By-law as long as, when constructed, the building or structure is used and continues to be used for the purpose for which it was constructed.

2.17 Reduced Building Line

For all zone categories, the minimum required front yard and/or minimum required exterior side yard may be reduced to the average of the established front and/or exterior side yards on abutting lots on either side of the subject lot, provided that, with the exception of the Downtown Traditional Main Street (C6) Zone, the building line is setback a minimum 1 m from the lot line to be established by any required public acquisition of lands.

- a) On a corner lot, the average of the established yard will be calculated from the immediate abutting occupied lot and the occupied lot across the road on the same side of the road.
- b) On a corner lot with no through road cross section, the average of the established yard will be calculated from the abutting lot on the same side of the road and the next adjacent lot thereto.

- c) Where an abutting lot or adjacent lot thereto, or a lot across the road and on the same side of the road, is vacant, the next closest occupied lot on the same side of the road to the vacant property will be utilized to calculate the established average.

2.18 Special Needs Housing

Special Needs Housing shall be permitted in all dwelling types, and shall comply with the applicable provisions of this By-law for that dwelling type.

2.19 Development Constraints

In addition to the zone provisions of this By-law, lands may be subject to additional regulation or restriction of use by the City, upper tier government or agencies as set out in Section 1.1.3 of this By-law, including but not limited to:

- a) Lands subject to Provincial Highway Control or Railway Development Constraints (Appendix 16.1.1).
- b) Lands within the Niagara Natural Environment Screening Layer (Appendix 16.1.2).
- c) Lands subject to Airport Zoning Regulations (Appendix 16.1.3).
- d) Lands within or adjacent to Landfill Sites (Appendix 16.1.4).
- e) New or expanded livestock operations, and new development in proximity to existing livestock operations where Minimum Distance Separation formulae of the Province of Ontario may apply (Appendix 16.1.4).
- f) Lands within or adjacent to the Natural Area Extent Line (Appendix 16.1.5). Any land within or adjacent to the Natural Area Extent Line may be subject to additional regulation or restriction of use with respect to protection, preservation, restoration, maintenance or improvement of natural heritage features and natural hazard lands.

4.0 GENERAL PROVISIONS

4.1 Accessory Uses, Buildings and Structures

1. Where this By-law provides that a lot may be used, or a building or structure may be erected or used for a permitted purpose, that use shall include an accessory use, building, or structure, unless otherwise expressly prohibited.
2. An accessory use, building, or structure shall be located on the same lot as the principal use.
3. The following uses of an accessory building or structure shall be prohibited, unless otherwise expressly permitted by this By-law:
 - a. The use of an accessory building or structure for human habitation;
 - b. The use of an accessory building or structure to a dwelling for gain or for profit; and
 - c. The storage of an intermodal container, except in the Employment Zone and where outside storage is expressly permitted.
4. An accessory use, building, or structure shall only be permitted where the City of Vaughan has issued a building permit for the principal use, building, or structure.

4.2 Commercial and Recreational Vehicles

1. The parking or storage of a commercial vehicle or recreational vehicle on a vacant lot shall be prohibited.
2. The parking or storage of a commercial vehicle shall not be permitted on a lot where a model home or temporary sales office is located.
3. The storage of a commercial vehicle or recreational vehicle shall be prohibited in all zones except in accordance with the following:
 - a. A commercial vehicle or recreational vehicle is wholly located within an enclosed garage;
 - b. A commercial vehicle or recreational vehicle is located within an enclosed accessory structure, where the accessory structure complies with all other requirements of this By-law; or
 - c. Where outside storage or an outdoor display area is expressly permitted by this By-law.

4. Notwithstanding the provisions of Section 4.2, the parking or storage of a commercial vehicle shall be permitted if it is temporary in nature and only for the purpose of construction for which the commercial vehicle is intended.

4.3 Frontage on a Road

1. No building or structure shall be erected and the use of any lot, building or structure shall be prohibited unless the lot meets one or more of the following requirements:
 - a. The lot has frontage on a public road;
 - b. The lot will have frontage on a public road that is under construction pursuant to an agreement with a public authority;
 - c. Where a lot has frontage on a private road that is held as a common element condominium, that private road shall have direct and unobstructed access to a public road or will have frontage on a public road that is under construction pursuant to an agreement with a public authority; or
 - d. For an existing lot, the lot has access to a private road that existed on the effective date of this By-law.
2. Notwithstanding Section 4.3.1, a lot used for a stormwater management facility or any other use by a public authority is not required to have frontage on a road.

4.4 Height Exceptions

1. The height requirements of this By-law shall not apply to:
 - a. A belfry or spire associated with a place of worship;
 - b. Water storage tank;
 - c. A clock or bell tower;
 - d. Flagpole;
 - e. Telecommunication equipment; and
 - f. Buildings and structures accessory to an agriculture use that is not used for human habitation, and where an agriculture use is expressly permitted as a principal use of a lot by this By-law.
2. The height requirements of this By-law shall not apply to rooftop mechanical equipment, subject to the following:

- a. Architectural screening shall be required to obscure all rooftop mechanical equipment;
 - b. The maximum height of a mechanical penthouse shall be 4.5 m. For clarity, a mechanical penthouse shall not be deemed a storey for the purpose of this By-law; and
 - c. The maximum permitted area of all rooftop mechanical equipment shall not be greater than 25% of the aggregate area of the roof of the building upon which the rooftop mechanical equipment is situated.
3. In the Vaughan Metropolitan Centre Zones, architectural building features and appurtenances which are normal and incidental to a principal building on a lot shall be permitted to be greater than the maximum permitted height as required by this By-law.

4.5 Highway Corridor Setback

Notwithstanding any other provision of this By-law, the following uses, buildings and structures shall be located a minimum distance of 14 m from any lot line abutting a provincial highway corridor:

1. A building or structure;
2. A minimum required parking space; or
3. A landscape strip.

4.6 Intermodal Containers

1. An intermodal container shall only be permitted on a lot where outside storage is expressly permitted as an accessory use.
2. An intermodal container shall be subject to Section 4.1 of this By-law.
3. The use of an intermodal container for any purpose other than storage shall be prohibited.
4. Notwithstanding Section 4.6.1, 4.6.2 or 4.6.3, an intermodal container shall be prohibited in any yard abutting a Residential Zone.

4.7 Multiple Uses, Buildings and Dwellings

1. Unless expressly prohibited by this By-law, more than one building shall be permitted on a lot. For clarity, where there is more than one building on a lot, each building shall be subject to all other requirements of this By-law.

2. Where multiple uses are permitted on a lot, those uses are permitted to be located in a mixed-use development. For clarity, where is more than one use on a lot, each use shall be subject to all other requirements of this By-law.
3. Notwithstanding Section 4.7.1 and 4.7.2, a maximum of one single detached dwelling shall be permitted per lot. For clarity, a maximum of one farm help dwelling shall be permitted on a lot in an Agriculture Zone and where agriculture is the principal use of the lot.

4.8 Municipal Services

The erection or enlargement of a building shall be prohibited except where municipal services are available, or alternative services are provided to a lot and such services are permitted by a public authority, and where all necessary regulatory approvals have been obtained.

4.9 Oak Ridges Moraine Overlay

Within lands identified as the Oak Ridges Moraine Overlay on Schedule B-4, where there is a conflict between this By-law and the Oak Ridges Moraine Conservation Plan, the requirements of the Oak Ridges Moraine Conservation Plan shall prevail.

4.9.1 Oak Ridge Moraine Overlay on an Agriculture Zone

Where a lot or a portion of a lot is located in an Agriculture Zone that is subject to the Oak Ridges Moraine Conservation Plan, as shown on Schedule B-4, that lot or that portion of a lot shall be subject to the following requirements:

1. Notwithstanding any other requirement of this By-law, uses permitted on lands within the Oak Ridges Moraine Overlay shall be restricted to the following:
 - a. Agriculture;
 - b. Conservation uses;
 - c. Home industry;
 - d. Home occupation;
 - e. Low intensity recreational uses (Oak Ridges Moraine); and
 - f. Parks.
2. The following uses shall only be permitted on a lot of record that existed as of November 15, 2001:
 - a. Single detached dwelling;

- b. Farm help dwelling; and
- c. Secondary suite.

4.9.2 Oak Ridges Moraine Overlay in a Conservation Zone

Where a lot or a portion of a lot is located Conservation Zone that is subject to the Oak Ridges Moraine Conservation Plan, as shown on Schedule B-4, that lot or that portion of a lot shall be subject to the following requirements:

1. Notwithstanding any other requirement of this By-law, uses permitted on lands within the Oak Ridges Moraine Overlay shall be restricted to the following:
 - a. Low intensity recreational uses (Oak Ridges Moraine).
2. The following uses shall only be permitted on a lot of record that existed as of November 15, 2001:
 - a. Single detached dwelling; and
 - b. Secondary suite.

4.10 Permitted Encroachments and Projections

4.10.1 General

1. All yards required by this By-law shall be open and unobstructed by any feature, structure, or deck, unless otherwise permitted in accordance with Table 7-1: Accessory Buildings and Structures in Residential Zones and Table 7-4: Permitted Encroachment of Decks in Residential Zones.
2. Where a yard is not identified in Table 4-1: Permitted Encroachments of Structures and Features into Required Yards, it shall be interpreted that an encroachment shall not be permitted in that yard.
3. Notwithstanding Table 4-1: Permitted Encroachments of Structures and Features into Required Yards, there shall be a minimum setback of 0.6 m from any part of a structure or feature to the nearest lot line.

4.10.2 Permitted Encroachment of Structures and Features into Required Yards

1. Structures and features shall be permitted to encroach into a required yard in accordance with Table 4-1: Permitted Encroachments of Structures and Features into Required Yards:

Table 4-1: Permitted Encroachments of Structures and Features into Required Yards

Structure or Feature	Applicable Yards	Permitted Encroachment (m)
Residential Zones		
<u>Balcony</u>	<u>Front</u> , <u>rear</u> and <u>exterior side</u>	1.8
<u>Bay window</u>	<u>Front</u> , <u>rear</u> and <u>exterior side</u>	0.6
Belt course	<u>Front</u> , <u>rear</u> and <u>exterior side</u>	0.3
Ground or wall mounted central air conditioners, heat pump, or air exchange	Interior side	0.6
	<u>Rear</u> and <u>exterior side</u>	1.5
Chimney breast	<u>Front</u> , <u>rear</u> , and <u>exterior side</u>	0.6
	<u>Interior side</u>	0.3
Cornice	<u>Front</u> , <u>rear</u> and <u>exterior side</u>	0.6
Eave and gutter	<u>Front</u> , <u>rear</u> and <u>exterior side</u>	1.8
	Interior side	0.6
Exterior stairway, greater than 0.5-storey in height	Rear	1.8
Pilaster	<u>Front</u> , <u>rear</u> and <u>exterior side</u>	1.8
<u>Porch</u>	Interior side	0.3
	<u>Front</u> , <u>exterior</u> , and <u>rear</u>	1.8
Roof overhang	<u>Front</u> , <u>rear</u> and <u>exterior side</u>	1.8
Sill	<u>Front</u> , <u>rear</u> and <u>exterior side</u>	0.6

Structure or Feature	Applicable Yards	Permitted Encroachment (m)
Window	All	0.5

4.11 Permitted Uses in All Zones

1. The requirements of this By-law shall not apply to the use of any land, or to the erection or use of any building or structure by a public authority for the purpose of a watermain, sanitary sewer main, storm sewer main, natural gas main, pipe line, the transmission or distribution of electricity, telecommunications or communication infrastructure, and any structure required for the purpose of flood control or shoreline erosion mitigation.
2. The use of any land, or the erection or use of any building or structure by a public authority for a public use shall be permitted in all zones, subject to the following requirements:
 - a. The lot and building requirements of the zone in which the public use is located shall apply for any principal building on the lot.
 - b. Parking shall be provided in accordance with Part 6 of this By-law.
 - c. Outside storage shall be prohibited, unless otherwise expressly permitted in the zone in which the lot is located.
 - d. Notwithstanding the above, where a public use is located on lands shown on Schedule B-4: Oak Ridges Moraine Conservation Plan, the requirements of the Oak Ridges Moraine Conservation Plan shall apply.
3. Temporary buildings and structures normal and incidental to construction and property maintenance shall be permitted in any zone, provided a valid building permit has been issued by a public authority, where a building permit for the work is required.

4.12 Prohibited Uses in All Zones

The following uses shall be prohibited in all zones, unless otherwise expressly permitted by this By-law:

1. The sale, distribution and manufacture of ammunition;
2. An arsenal;
3. The processing or rendering of livestock for human consumption or a commercial by-product of any kind;

4. The manufacture, storage, refining, rendering or distillation of acid, ammonia, chlorine, coal, coal oil, creosote, explosives, fireworks, glue, petroleum, or tar;
5. A permanent mixing plant for the processing or manufacture of asphalt, concrete, or any other aggregate by-product;
6. The smelting, process or manufacture of tin, copper, zinc or iron ore;
7. Oil tanks for the purpose of commercial storage and distribution;
8. Outside storage yard for construction waste, automobile wrecking, used lumber, scrap iron or other materials, or a junk yard;
9. An obnoxious use as defined by this By-law; and
10. Any other use not expressly permitted by this By-law.

4.13 Reserve

For the purposes of this By-law, a 0.3 m reserve shall be considered part of the abutting public road.

4.14 TransCanada Pipeline and Facilities

1. Notwithstanding any other requirement of this By-law, a principal building or structure shall have a minimum setback of 7 m from the extent of the TransCanada pipeline or a TransCanada facility, as shown on Schedule B- 5: TransCanada Pipeline and Facilities.
2. Notwithstanding any other requirement of this By-law, an accessory structure shall have a minimum setback of 3 m from the extent of the TransCanada pipeline or a TransCanada facility, as shown on Schedule B-5: TransCanada Pipeline and Facilities.

4.15 Waste Storage

4.15.1 General

1. Waste storage shall be located within a building or within a waste storage enclosure in the following zones or in conjunction with the following uses:
 - a. A mixed-use development in any Vaughan Metropolitan Centre zone;
 - b. A mixed-use development in any Mixed-Use zone;
 - c. Any uses in an Institutional zone;
 - d. Any uses in the Prestige Employment Zone;
 - e. Apartment dwellings;

- f. Block townhouse dwelling;
- g. Back-to-back stacked townhouse dwelling; and
- h. Stacked townhouse dwelling.

4.15.2 Location

1. Where waste storage is located within a building that contains the principal use of a lot, it shall be wholly enclosed and partitioned from the other uses in the building.
2. A waste storage enclosure shall be prohibited in the following yards:
 - a. Front yard;
 - b. Exterior side yard; and
 - c. In any yard abutting a Residential Zone.
3. The minimum setback of a waste storage enclosure from a lot line abutting a Residential Zone shall be 15 m.
4. A waste storage enclosure shall be prohibited in any landscape open space required by this By-law.
5. A waste storage enclosure shall not obstruct any parking space, aisle, stacking lane or driveway required by this By-law.

4.16 Wellhead Protection Areas

1. The storage, use, manufacturing or application of any of the following uses or activities, except in association with a normal household use, shall be prohibited within a Wellhead Protection Area as shown on Schedule B-2: Wellhead Protection Areas, unless otherwise expressly permitted by approval from all regulating public authorities, as required:
 - a. Petroleum-based fuels and solvents;
 - b. Pesticide, herbicides, fungicides or fertilizers;
 - c. Heavy commercial motor vehicles;
 - d. Inorganic chemicals;
 - e. Road salt;
 - f. Known contaminants as prohibited, controlled, or restricted by a public authority;
 - g. Hazardous waste or liquid industrial waste;

- h. Waste disposal sites and facilities;
 - i. Organic soil conditioning sites and facilities;
 - j. The storage or application of source organic materials; and
 - k. Off-site snow storage and disposal facilities.
2. The following uses shall be prohibited within the 100-metre Zone and the 0 – 2 Year Zone as shown on Schedule B-2: Wellhead Protection Areas:
 - a. Pathogens identified in Section 4.16.1;
 - b. A stormwater management facility; and
 - c. Rapid infiltration basins or columns.
 3. The enlargement or development of uses identified in 4.16.1 and existing on the date of passing of this By-law shall be prohibited, unless otherwise expressly permitted by approval from all regulating public authorities, as required.

4.17 Woodbridge Special Policy Area

1. The use of land, or the erection or alteration of buildings or structures for any use is prohibited within floodways of the Humber River as defined by the Toronto Region Conservation Authority and as shown on Schedule B-3: Woodbridge Special Policy Area, unless otherwise deemed necessary by a public authority for conservation or flood control.
2. Notwithstanding any other permission of this By-law, the following uses are prohibited within the boundary of the Woodbridge Special Policy Area as shown on Schedule B-3: Woodbridge Special Policy Area:
 - a. Institutional uses, including:
 - i. Hospital;
 - ii. Long-term care facility;
 - iii. Group home;
 - iv. School;
 - v. Day care centre; and
 - vi. Home based day care.
 - b. Any use that includes the storage, manufacture, production or transfer of hazardous goods or materials;

- c. The treatment, collection or disposal of wastewater; and
 - d. Buildings or structure where emergency services or utilities are the principal use.
3. Development or alteration of any land within the boundaries of the Woodbridge Special Policy Area as shown on Schedule B-3: Woodbridge Special Policy Area, shall be subject to additional studies to the satisfaction of all regulating public authorities, and may not occur until such time that approval has been granted by all regulating public authorities, as required.

SECTION 5 GENERAL PROVISIONS

5.1 Access

- a) Unless otherwise specified in this By-law, no person shall erect or use a building or structure unless the lot upon which the building or structure is situated, erected or proposed to be erected fronts on a street.
- b) No person shall erect or use a building or structure unless the street referenced in Subsection 5.1 a), is paved with a base course of asphalt, all water and sewer mains and service laterals to the property line are installed and tested, and all street name and traffic control signs are installed, all to the satisfaction of the City Engineer, save and except the provisions related to model homes contained in a Registered Subdivider's Agreement or Model Home Agreement.

5.2 Accessory Dwelling Units

Notwithstanding any other provisions of this By-law, where an accessory dwelling unit is permitted by this By-law it shall be in accordance with *Planning Act*, as amended, Regulation O. Reg. 384/94 and the following provisions:

- a) Only one accessory dwelling unit shall be permitted per lot.
- b) An accessory dwelling unit is permitted in association with a single-detached dwelling, two-unit dwelling and townhouse dwelling if no building or structure ancillary to the single-detached dwelling, two-unit dwelling or townhouse dwelling contains a residential dwelling unit.
- c) An accessory dwelling unit is permitted in a building accessory to a single-detached dwelling, two-unit dwelling or townhouse dwelling if the single-detached dwelling, two-unit dwelling or townhouse dwelling contains a single residential dwelling unit.
- d) Parking shall be in accordance with Section 6.

5.3 Accessory Uses, Buildings and Structures

The following provisions shall apply to all accessory uses, buildings and structures. These provisions shall not apply to any attached private garages and parking areas.

5.3.1 General

- a) Where this By-law provides that a lot may be used for a permitted use or a building or structure may be erected or used for a permitted use, that use

shall include any accessory building or structure or accessory use, but shall not include:

- i) Any occupation for gain or profit conducted within or accessory to a dwelling unit except where specifically permitted by this By-law;
 - ii) Any building used for human habitation, except where specifically permitted by this By-law;
 - iii) An outdoor furnace or outdoor wood-burning sauna;
 - iv) Any storage container, portable storage unit, repurposed motor vehicle in whole or in part, “sea can” container, intermodal container or other such like container in any Zone other than an Industrial Zone.
- b) The accessory use, building or structure shall be located on the same lot and in the same Zone as the principal use, building or structure.

5.3.2 Location

- a) Except as otherwise provided herein, no person shall erect or locate a detached private garage or other accessory building:
- i) In any yard other than an interior side or rear yard;
 - ii) Without maintaining a minimum setback of 0.9 metres from any side or rear lot line;
 - iii) Closer to a street line than the minimum setback required for a main building on the same lot, or in the case of a detached private garage, not less than 5.5 metres to a street line; or
 - iv) So as to interrupt or encroach into a required planting strip.
- b) No person shall erect or locate an accessory building less than 0.9 metres from any main building.

5.3.3 Height

Except as otherwise provided herein, no person shall erect an accessory building which exceeds 6.0 metres in height in any Residential Zone.

5.3.4 Lot Coverage

- a) The total lot coverage of all accessory buildings and structures on a lot shall not exceed ten percent of the area of any lot in any Zone. This does not apply to decks or open air swimming pools.

5.3.5 Special Provisions for Certain Accessory Uses, Buildings and Structures

- a) Accessory Dwelling Units: Refer to Subsection 5.2;
- b) Bicycle Parking Requirements: Refer to Subsection 6.7;
- c) Drive-Through Facilities: Refer to Subsection 5.9;
- d) Encroachments: Permitted Yard, Setback and Height Encroachments (applicable to certain accessory buildings and structures): Refer to Subsection 5.10;
- e) Fences and Privacy Screens: Refer to Subsection 5.12;
- f) Garbage and Refuse Storage and Enclosures: Refer to Subsection 5.14;
- g) Garden Suites: Refer to Subsection 5.15;
- h) Home Industries: Refer to Subsection 5.17;
- i) Home Occupations: Refer to Subsection 5.18;
- j) Loading Spaces: Refer to Subsection 6.6;
- k) Parking and Loading Regulations: Refer to Section 6;
- l) Pergolas: Refer to Subsection 5.28;
- m) Seasonal Outdoor Uses: Refer to Subsection 5.36;
- n) Swimming Pools and Hot Tubs: Refer to Subsection 5.41;
- o) Trailers, Recreational Vehicles and Boat Parking and Storage: Refer to Subsection 6.12.

5.4 **Apartment Units in Commercial and Mixed Use Zones**

Where permitted by this By-law an apartment unit permitted in Commercial and Mixed Use Zones shall be in accordance with the following provisions:

- a) Apartment unit(s) shall be located in the second or higher storey of commercial buildings.

- b) An apartment unit shall be prohibited on the same lot as a motor vehicle body shop, motor vehicle dealership, motor vehicle repair establishment, motor vehicle service station or motor vehicle washing establishment.
- c) Parking and loading requirements shall be provided for the apartment unit(s) in accordance with Section 6.

5.5 Bed and Breakfast Establishments

Bed and breakfast establishments are subject to the following regulations:

- a) The bed and breakfast establishment shall have the operator residing on the premises; and
- b) A bed and breakfast establishment shall only be permitted in a single-detached dwelling and shall not contain more than three rooms for hire; and
- c) The bed and breakfast establishment shall be a secondary use to the principal Residential use of a single-detached dwelling and shall maintain the residential character of the dwelling; and
- d) No external display or advertising shall be permitted on the site, other than in accordance with the Home Occupations provisions of the City of Welland Sign By-law, as amended, or its successor; and
- e) Bed and breakfast establishments must front on a public street and be fully serviced by a municipal sewer system and a municipal water system if they are available on the public street.

5.6 Condominiums

5.6.1 Standard Condominiums

Internal lot lines created by:

- a) a registration of a Plan of Condominium; or
- b) a Plan or Plans of Condominium registered on all or a portion of a lot which is part of a comprehensively planned development subject to a Development Agreement pursuant to Section 41 of the *Planning Act*, as amended;

shall not be construed to be lot lines for the purposes of Zoning regulations provided that all applicable regulations of this By-law relative to the whole lot and its external lot lines, existing prior to any Condominium Plan registration are strictly observed.

5.6.2 Vacant Lot Condominiums

- a) More than one single-detached dwelling, two-unit dwelling or townhouse dwelling shall be permitted on a lot provided that each dwelling has direct access to a public street or an internal private driveway or road that is a common element in a registered Condominium connecting to a public street and that each dwelling is located on a lot in a Vacant Land Condominium.
- b) For the purposes of this regulation, the front lot line for each unit in a Vacant Land Condominium shall be deemed to be that lot line abutting the internal driveway portion of the common element or the lot line abutting a public street wherever the driveway access is, and the dwelling on such a lot shall comply with all applicable Zoning regulations.

5.6.3 Common Element Condominiums

Notwithstanding Section 5.13 of this By-law, single-detached dwellings, two-unit dwellings or townhouse dwelling shall be permitted on lots without frontage on a public street provided that all such dwellings are located on Parcel of Tied Lands (POTL) to a Common Element Condominium (CEC) consisting of at least a common private driveway connecting to a public street.

Where lands have been comprehensively planned and are subject to an approved Site Plan or Development Agreement pursuant to Section 41 of the *Planning Act*, as amended, any Zoning deficiencies resulting from the creation of the POTL, shall be deemed to conform to the regulations of the By-law provided that:

- a) All applicable regulations of the By-law relative to the whole lot and its external lot lines, existing prior to any Condominium Plan registration are complied with; and
- b) Each dwelling unit shall have an unobstructed access at grade or ground floor level, having a minimum width of 1.0 metres, from the front yard to the rear yard of the lot either by:
 - i) Direct access on the lot without passing through any portion of the dwelling units; or
 - ii) Direct access through the dwelling unit without passing through a living or family room, dining room, kitchen, bathroom, bedroom, or recreation room or any hallway that is not separated by a door to any such room; or
 - iii) Access over adjacent lands that, if the lands are not owned by the City or the Region of Niagara, are secured by an easement or are a common element of the Condominium.

Any additions or alterations to the dwelling; accessory structures; yard projections; and driveways and widening(s) of driveways added subsequent to the registration of the Condominium, which are not shown on the approved Site Plan must comply with the applicable Zoning regulations for the type of dwelling contained within the POTL. For the purposes of this regulation, the front lot line shall be deemed to be the shortest lot line abutting the public street, internal driveway or internal walkway which provides primary access to the dwelling.

5.7 Construction Uses and Sales Offices

The following uses are permitted in all Zones within the City:

- a) A temporary construction office, temporary fenced compound, tool shed, scaffold, storage container, garbage dumpster or other building or structure incidental to construction on the lot where it is situated and only for so long as it is necessary for the work in progress and until or unless the work is completed or abandoned. "Abandoned", for the purpose of this clause, shall mean the failure to proceed expeditiously with the construction of the work.

Notwithstanding the Fence By-law, as amended, such fence enclosing a compound in a Residential Zone shall meet the following criteria:

- i) Maximum height of 2.6 metres;
 - ii) Chain link construction;
 - iii) No barbed wire;
 - iv) No electric fencing; and
 - v) May be located within the required front yard.
- b) A temporary sales office used for the sale of residential, industrial or commercial lots or units in a Plan of Subdivision or a Plan of Condominium which has received Draft Approval or has been Zoned to permit the development shall be permitted for a maximum of five years. A temporary sales office shall comply with the applicable setbacks of the Zone in which the office is located.
 - c) A temporary construction trailer and a temporary fenced compound for construction materials, provided such trailer or compound is located at the time of the installation, at least 45.0 metres from an existing dwelling unit under construction.
 - i) Notwithstanding the Fence By-law, as amended, such fence enclosing a compound in a Residential Zone shall meet the following criteria:
 - (1) Maximum height of 2.6 metres;

- (2) Chain link construction;
- (3) No barbed wire;
- (4) No electric fencing; and
- (5) May be located within the required front yard.

5.8 Day Care Centres

Where a day care centre is provided within a commercial or mixed use building larger than 1,858.0 square metres, the floor area devoted to the day care centre shall not be included in the maximum gross floor area permitted, or in the calculation of the required parking requirements for the building.

5.9 Drive-Through Facilities

- a) A drive-through use shall be a permitted accessory use to a permitted Commercial use with the exception of a Commercial use within the Downtown Mixed Use Centre Zone.
- b) A drive-through shall include a minimum of eight designated stacking spaces for restaurants and two stacking spaces for any other use.
- c) A stacking space shall be a minimum of 5.5 metres in length and 3.0 metres in width.
- d) A stacking lane shall not be permitted within 10.0 metres of any Residential Zone. The required setback may be reduced to a minimum of 3.0 metres, provided that a noise wall, certified by a professional engineer, no taller than 1.8 metres exclusive of decorative elements, is installed prior to occupancy of the drive-through facility. The noise levels shall not exceed the maximum levels specified by the Ministry of Environment's NPC-300 – Environmental Noise Guideline, as amended, for stationary sources of noise.
- e) Stacking spaces shall not be included in the calculation of required parking.
- f) Stacking spaces shall not be located within any parking aisle or driveway.

5.10 Encroachments: Permitted Yard, Setback and Height Encroachments

5.10.1 Accessibility Ramps and Lifts

Notwithstanding the yard provisions of this By-law, lifts, hoists, ramps, and railings used for barrier-free access shall be permitted in any required yard, but not in a visibility triangle.

5.10.2 Awnings and Balconies

Notwithstanding any other provisions of this By-law, awnings which do not exceed 4.0 metres in height and which are structurally attached to the main wall of a building, and unenclosed balconies shall be permitted to encroach up to a maximum of 1.5 metres within a required front yard and/or exterior side yard.

5.10.3 Bay Windows

Notwithstanding the yard provisions of this By-law, no person shall permit a bay window, excluding eaves and cornices, with a maximum width of 3.0 metres and a maximum height not exceeding the required height specified in this By-law, to project into a required front, rear or exterior side yard further than a maximum distance of 1.0 metre.

5.10.4 Building in Built-up Area (Residential Zones)

Notwithstanding any other provision of this By-law, in any Residential Zone, a main building between existing main buildings or adjacent to existing main buildings which are adjacent to the lot and which are separated by no more than 20.0 metres, may be built with a setback equal to, or greater than, the average setback of the adjacent buildings.

5.10.5 Decks, Porches, Steps

- a) Open or roofed porches and stairs may project 1.5 metres into any required front or exterior side yard and 3.0 metres into any rear yard, provided the structure is not higher than 1.5 metres from grade.
- b) In any interior side yard, the setback requirements for the main building shall apply with the exception of steps not higher than 0.5 metres, above-grade.
- c) Stairs that lead to areas below-grade are permitted within any yard but not within a required yard; however, they may project a maximum of 1.5 metres provided said structure is not higher than 4.0 metres from grade.
- d) Decks may project into any required front or exterior side yard a distance of not more than 1.5 metres provided said structure is not higher than 4.0 metres from grade.
- e) Decks may project a maximum of 3.75 metres into the required rear yard, provided said deck is not higher than 1.5 metres above-grade.
- f) In an interior side yard, the setback requirements for the main building shall apply.

5.10.6 Driveways, Parking and Walkways

Driveways, parking areas and walkways shall be permitted to traverse required yards.

5.10.7 Heat Pumps, Air Conditioners and Ventilating Equipment, etc.

- a) Heat pumps, air conditioners and ventilating equipment, etc., shall be permitted to encroach into any interior side or rear yard, but not closer than 0.5 metres to any lot line.
- b) Heat pumps and air conditioners, etc., shall not be permitted in any front yard.
- c) Heat pumps and air conditions shall be permitted in any exterior side yard, but not closer than 3.0 metres to a street line.

5.10.8 Height Exceptions

Notwithstanding any other provisions in this By-law, nothing in the By-law shall apply to prevent the erection or use of:

- a) A stair tower, elevator shaft, chimney stack or other heating, cooling or ventilating equipment on the roof of the building, provided:
 - i) The maximum height at the top of such elevators or elements is no higher than 6.0 metres above the roof of the building;
 - ii) No structure shall enclose space so as to constitute a part or all of a penthouse or other habitable space; and
 - iii) Such elements are screened to a maximum height of 6.0 metres above the roof.
- b) A spire or feature ornamental to a place of worship, a belfry, a flag pole, a clock tower, a chimney, a radio or television tower, or an antenna or satellite dish; and
- c) Elements such as free standing chimney stacks, scrubbers, and other similar equipment for the purpose of pollution abatement in the case of an industrial building.

5.10.9 Ornamental Structure

Notwithstanding the yard provisions of this By-law, no person shall permit a sill, belt course, chimney, cornice, eave, awning, gutter, parapet, pilaster or other ornamental structure with or without a foundation to project into any required yard further than a maximum distance of 0.5 metres.

5.10.10 Structures

Notwithstanding the yard provisions of this By-law, clothes lines, flag poles, garden trellises, fences, retaining walls, monuments, pergolas or lawful swings, shall be permitted in any required yard, except where specifically excluded in a corner lot visibility triangle or planting strip in accordance with the provisions of this By-law.

5.11 Expropriation: Reduction in Regulations

5.11.1 Reduced Lot Area and/or Lot Frontage and/or Lot Depth of a Vacant Lot

If the lot area and/or frontage and/or depth is reduced on a vacant lot as a result of the action of the City, the Region of Niagara or of the Provincial or Federal Government or a Crown Agency, such as an expropriation or dedication, then a permitted use may be located on the vacant lot provided all other regulations of the By-law are complied with.

5.11.2 Reduced Regulations on a Lot with an Existing Permitted Use

Where, as a result of the action of the City, the Region of Niagara or of the Provincial or Federal Government or Crown Agency, a lot with an existing permitted building, structure, or use becomes non-complying with one or more regulations of this By-law, then the existing building, structure or use may be repaired, renovated, altered or enlarged, provided that the repair, renovation, alteration, or enlargement does not cause further contravention to the regulations of this By-law. Furthermore, the non-complying circumstance shall be considered to comply with this By-law.

5.12 Fences and Privacy Screens

Fences and walls are permitted in all Zones subject to the following provisions:

5.12.1 Provision Applicable to All Zones

Fences shall be subject to the provisions of Fence By-law, as amended.

5.12.2 Privacy Screens

a)	Privacy screens are permitted on decks and balconies for single-detached dwellings subject to the following regulations:	
i)	Maximum Height from Platform	2.0 metres

ii)	Setback from a Street	as per minimum front yard required in the corresponding Residential Zone
iii)	Setback from a Side Lot Line	1.0 metres
iv)	Setback from a Rear Lot Line	1.0 metres
b)	Privacy screens are permitted for two-unit dwellings, multiple dwellings, street townhouse dwellings and apartment dwellings and are subject to the following regulations:	
i)	Maximum Height	2.5 metres
ii)	Setback from a Street:	as per minimum front yard required in the corresponding Residential Zone
iii)	Setback from a Side Lot Line	0 metres
iv)	Setback from a Rear Lot Line	1.0 metres
c)	Privacy screens are permitted for apartment dwelling units and multiple dwelling units and are subject to the following regulations:	
i)	Maximum Height	2.0 metres
ii)	Setback from a Street	as per minimum front yard required in the corresponding Residential Zone
iii)	Setback from a side lot line	1.0 metres
iv)	Setback from a rear lot line	1.0 metres

5.13 Frontage on a Public Street or Navigable Waterway

- a) Except as outlined elsewhere in this By-law, no person shall erect any building or structure or create a lot in any Zone unless the lot fronts upon an improved public street.
- b) Notwithstanding the foregoing, an existing lot, shown in registered land titles, in accordance with the *Land Titles Act*, as amended, may be built upon and existing structures altered provided the said lot or structure is

connected to both municipal water and sanitary sewer services or complies with relevant legislation for private services. For the purposes of establishing minimum setbacks for a lot on a private road or right-of-way, the private road or right-of-way on which the existing lot fronts shall be considered to be the front lot line.

5.14 Garbage and Refuse Storage and Enclosures

- a) An enclosure for the outside storage of domestic waste containers accessory to single-detached dwellings, two-unit dwellings, converted dwellings, multiple dwellings or residential structures containing less than four dwelling units shall not be required, unless otherwise specified.
- b) For all other uses other than those specified in Subsection 5.14 a), no person shall store garbage or refuse on any lot except within the main building on the lot or within a wholly enclosed accessory building or structure or enclosed waste management container or specialized partially underground waste container system.
- c) Where an enclosure is provided in accordance with Subsection 5.14 b), said enclosure shall be surrounded by masonry, concrete or wooden walls on all sides up to the height of the structure to screen the waste container.
- d) Where an enclosure or private waste management container is provided in accordance with Subsection 5.14 b), the enclosure shall be associated with an area of at least 9.0 metres by 3.0 metres, to be used for the purposes of picking up garbage or refuse from the enclosed container.
- e) Any enclosure or accessory building provided in accordance with Subsection 5.14 a), shall be located not less than 6.0 metres from any adjacent Residential or Institutional Zone.

5.15 Garden Suites

A garden suite shall only be permitted on a lot Zoned for a single-detached dwelling subject to a Temporary Use By-law passed under Section 39 of the *Planning Act*, as amended, and the following:

- a) A garden suite shall be a small, portable building which can be readily removed and is separate from the principal dwelling;
- b) It is adequately serviced by the principal dwelling;
- c) An accessory dwelling unit and a garden suite shall not be permitted on the same lot;
- d) No new driveway shall be permitted;

- e) The owner of the subject property shall enter into an Agreement pursuant to Section 39.1 (1) of the *Planning Act*, as amended, with and satisfactory to the City of Welland dealing with such matters related to the temporary use of the garden suite as the Council considered necessary including:
 - i) The installation, maintenance and removal of the garden suite; and
 - ii) The period of occupancy of the garden suite by any of the persons named in the Agreement; and
 - iii) The monetary or other form of security that the Council may require for actual or potential costs to the municipality related to the garden suite; and
- f) Such other requirements as may be deemed necessary through the Temporary Use By-law.

5.16 Group Home

A group home shall be permitted within any zone where a dwelling is permitted, subject to the following:

- a) Maximum occupancy shall be ten, exclusive of staff; and
- b) Parking shall be provided in accordance with Section 6.

5.17 Home Industries

Where a home industry is permitted as an accessory use by this By-law within an Agricultural or Rural Zone, a home industry shall:

- a) Be conducted by at least one resident of the dwelling unit and shall not employ more than two persons in addition to the resident of the dwelling unit on a full-time or part-time basis;
- b) Be conducted on the same lot as the principal dwelling unit;
- c) Be permitted within the dwelling unit or any accessory structure in accordance with the provisions of Subsection 5.3 and subject to a building permit;
- d) Be clearly secondary to the principal use of the lot and shall not alter the exterior of the dwelling unit except in accordance with the provisions of this Subsection;
- e) Not create noise, vibration, fumes, odour, dust, glare or radiation which is beyond the normal use of the dwelling or which becomes offensive or obnoxious or creates a nuisance;

- f) Not occupy more than twenty-five percent of the gross floor area of the principal dwelling on the lot;
- g) On lots up to and including 0.4 hectares, be permitted in an accessory structure with a maximum floor area of 200.0 square metres;
- h) On lots greater than 0.4 hectares, be permitted in an accessory structure with a maximum floor area of 400.0 square metres, and, shall
- i) Not include the selling of any goods on the property other than those goods constituting the finished product of the home industry, except that the sale of goods or items over the internet, mail or telephone is permitted, provided that customers do not enter the property to inspect or take possession of goods.

5.18 Home Occupations

5.18.1 General

A home occupation is permitted in any single-detached dwelling, two-unit dwelling and townhouse dwelling in any Zone.

5.18.2 Provisions

Where a home occupation is permitted by this By-law, a home occupation shall not:

- a) Occupy more than a total of twenty-five percent of the gross floor area of the dwelling unit or 28.0 square metres, whichever is lesser;
- b) Permit non-resident employees to be engaged in a home occupation;
- c) Alter the exterior of the dwelling unit by virtue of the operation of a home occupation;
- d) Include the open storage of goods, materials or equipment or display of goods visible from outside the dwelling unit;
- e) Use an accessory building for the home occupation, except for the storage of goods, materials or equipment required for the home occupation, provided that, should a garage area be used for said storage, the required parking for the dwelling unit shall be maintained;
- f) Become offensive or obnoxious or create a nuisance to adjoining properties by reason of increased vehicular traffic or parking, or delivery of goods, materials or equipment, or electrical interference, or emission of odour, dust, smoke, noise, gas, fumes, light, vibration, radiation, or refuse;

- g) Include the sale of any goods on the site other than those goods constituting the finished product of the home occupation;
- h) Include more than a total of two clients, students or customers of the home occupation to be on the premises at any one time.

5.18.3 Exception

A private home day care or babysitting service may be established as a home occupation, and shall not be restricted by Subsection 5.18.2 h).

5.18.4 Prohibited Uses

Without limiting the generality or applicability of the provisions for home occupations, the following uses shall not be considered home occupations:

- a) Kennel;
- b) Veterinary Clinic;
- c) Motor Vehicle Body Shop;
- d) Motor Vehicle Repair Establishment;
- e) Motor Vehicle Dealership;
- f) Motor Vehicle Washing Establishment;
- g) Painting of Vehicles, Trailers or Boats;
- h) Multiple Chair Hairdresser or Barber;
- i) Welding Shop;
- j) Service and Repair Shop for Large Appliances or Commercial and Industrial Equipment; and
- k) Arcade.

5.19 Minimum Distance Separation – MDS I and II

The Minimum Distance Separation (MDS) regulations are used to determine an appropriate setback distance between a livestock facility and another land use. The objective is to prevent land use conflicts and minimize nuisance complaints from odour. The minimum distance separation will vary according to a number of variables including type of livestock, size of farm operation, type of manure system and the form of development present or proposed.

5.19.1 MDS I – New Non-Farm Uses

Notwithstanding any other yard or setback provisions of this By-law to the contrary, no residential, institutional, commercial, industrial or recreational use, located on a separate lot and permitted within a Zone, shall be erected or altered unless it complies with the Minimum Distance Separation (MDS I) setback from a livestock facility, calculated using the formulas published by the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA), as may be amended from time to time.

5.19.2 MDS II – New or Expanding Livestock Facilities

Notwithstanding any other yard or setback provisions of this By-law to the contrary, no livestock facility shall be erected or expanded unless it complies with the Minimum Distance Separation (MDS II) setback, calculated using the Formulas published by the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA), as may be amended from time to time. Notwithstanding the above, an existing manure storage system which does not meet the MDS II requirements, may be replaced by a more compatible system which results in a reduction in the separation distance required, provided the livestock housing capacity is not increased.

5.20 **Model Homes in Draft Plans of Subdivision**

Notwithstanding any other provisions of this By-law, where a Subdivider's Agreement has been executed (signed) by the owner, more than one single-detached dwelling, two-unit dwelling, street townhouse dwelling, multiple dwelling or apartment dwelling may be constructed on a lot prior to registration of the Plan of Subdivision subject to the following restrictions:

- a) The use shall be permitted in the Zone in which the dwelling is to be located;
- b) Each dwelling unit shall be used for the purpose of a model home only and shall not be occupied as a dwelling unit prior to the date of the registration of the subdivision plan;
- c) For the purpose of this Section, a "multiple dwelling: shall only include that form of housing type commonly described as a block or cluster townhouse";
- d) The maximum number of model homes shall not exceed ten percent of the total number of lots intended for single-detached dwellings, two-unit dwellings, street townhouse dwellings, multiple dwellings or apartment dwellings within the Plan of Subdivision proposed for registration, to a maximum of twenty dwelling units;

- e) The model home shall comply with all other provisions of this By-law as though the dwellings and/or units were constructed on the lot within the future registered Plan of Subdivision; and
- f) The model home shall comply with all applicable terms and conditions of the said Subdivider's Agreement.

5.21 Multiple Zones on a Lot

Where a lot is divided into more than one Zone under the provisions of this By-law, each such portion of the lot shall be used in accordance with the permitted uses and Zone regulations of the applicable Zone as if it were a separate lot.

5.22 Municipal Services

5.22.1 Water Services

- a) Except as provided elsewhere in this By-law, all development, including lot creation, must be connected with municipal water services with the exception of the following:
 - i) Development will be permitted with individual private on-site clean and sustainable water capable of serving the proposed development on Agricultural Zoned land.
- b) A private well shall not be permitted as a principal or accessory structure on any lands within the limits of the City where municipal water services are available within the road right-of-way abutting the property, with the exception of the following:
 - i) A well which legally existed prior to the passing of this By-law; or
 - ii) A well which is installed for the purposes of environmental site remediation, water monitoring, or site de-watering; or
 - iii) A well which used for non-Residential purposes other than potable water such as irrigation, cooling, or manufacturing purposes.

5.22.2 Sanitary Services

Except as provided elsewhere in this By-law all development, including lot creation, must be connected with full municipal sanitary services, with the exception of the following:

- a) Development will be permitted on individual on-site sewage services when associated with severances and existing lots in agricultural areas and infilling situations in existing un-serviced developed areas where other

forms of servicing are not feasible, provided it can be demonstrated to the satisfaction of the City that the individual on-site sewage services will not result in an unacceptable level of environmental impact.

5.23 Non-Conforming Buildings and Structures

- a) Nothing in this By-law shall prevent the enlargement, repair, renovation, reconstruction, or structural alteration of a building or structure that existed one day prior to this By-law coming into effect, and which does not conform with the Zone requirements or other requirements of this By-law, provided:
 - i) The enlargement, repair, renovation, reconstruction, or structural alteration does not increase the situation of non-conformity;
 - ii) The enlargement, repair, renovation, reconstruction, or structural alteration does not pose a threat to a public health or safety; and
 - iii) All other applicable provisions of this By-law are complied with.
- b) Legally existing non-conforming buildings shall be deemed to comply with this By-law.

5.24 Non-Complying Lots

A non-complying lot that existed on the date of the passing of this By-law, and which does not comply with the minimum lot frontage and/or minimum lot area regulations of this By-law, may be used and buildings erected thereon for purposes permitted in the applicable Zone.

A non-complying lot that existed on the date of passing of this By-law, and which does not comply with the minimum lot frontage and/or minimum lot area regulations of this By-law, may be enlarged by lot addition, and the resultant lot shall be deemed to comply with all of the provisions of this By-law including minimum lot frontage and minimum lot area. All Zone provisions applicable to any existing buildings on the resultant lot shall thereafter be deemed to comply with the provisions of this By-law.

5.25 Non-Conforming Uses

- a) The provisions of this By-law shall not prevent the use of any existing lot, building or structure for any purpose prohibited by this By-law if such existing lot, building or structure was lawfully used for such purpose, prior to the effective date of this By-law and provided that the lot, building or structure continues to be used for that purpose. Where the use ceases, the use will be deemed to have been discontinued.

- b) Nothing in this By-law shall prevent the strengthening or restoration to a safe condition or reconstruction of any building or structure which existed on the date of passing of this By-law, provided that the strengthening, restoration or reconstruction does not increase the building height, size, or volume or change the use of such building or structure, except which minor changes as may be expressly required for the restoration of the building or structure to a safe condition.
- c) Notwithstanding any other provisions of this By-law, where a lawfully established non-conforming single-detached dwelling is located on a lot nothing shall prevent:
 - i) The enlargement or extension of any main building provided that such enlargement or extension does not exceed twenty-five percent of the existing gross floor area and that such enlargement or extension is in compliance with the Zone the lot is located in; and
 - ii) The erection of any accessory building provided that such accessory building complies with the requirement of Subsection 5.3.

5.26 Partial Destruction to Existing Buildings

A building destroyed to the extent of more than fifty percent of the structure (exclusive of walls below-grade) at the date of damage, and which does not comply with the requirements of this By-law with respect to use, lot occupancy or height, shall not be restored except in conformity with the regulations of the Zone in which the said building is located.

5.27 Patios, Outdoor

Patios are permitted accessory to a place of assembly or restaurant, subject to the minimum yards for the Zone in which it is located. The following additional regulations apply:

- a) Patios are not permitted in any yard abutting a Residential or Institutional Zone;
- b) Patios are not permitted on a balcony on any lot abutting a Residential or Institutional Zone;
- c) Patios shall not be considered as gross floor area when calculating gross floor area for the use it serves; and
- d) Patios shall not be permitted on a lot in any Industrial Zone abutting a lot in any Residential or Institutional Zone.

5.28 Pergolas

- a) Pergolas attached to the main building, shall meet the yard provisions as determined in each appropriate Zone.
- b) Pergolas, not attached to the main building, shall be located in the rear or interior side yards a minimum of 0.9 metres from lot lines and shall be not greater than 3.0 metres in height above-grade.
- c) The size of a pergola shall not exceed five percent of the lot area.

5.29 Planting Strips

5.29.1 Planting Strips Required Abutting Residential Zones

- a) A planting strip shall be required along the portion of the lot line abutting the Residential Zone in the following circumstances:
 - i) Where a lot is used for a non-Residential purpose and the interior side or rear lot line abuts a Residential Zone; or
 - ii) Where such lot is in a non-Residential Zone and the front, side or rear lot line abuts a portion of a street, and where the opposite side of the street abuts a Residential Zone; or
 - iii) Where a lot is used for an apartment dwelling that is equal to or greater than four storeys in height, a planting strip shall be required on any lot line that abuts an RL1 or RL2 Zoned lot. This provision shall not apply to any apartment dwellings that legally existed on the date of the adoption of this By-law.
- b) Where a planting strip is required in accordance with a) above, the planting strip shall have a minimum width of 1.5 metres unless otherwise provided herein, except for points of ingress and egress.
- c) Planting strip referred to in this Section may form part of any landscaped open space required by this By-law.
- d) No accessory use, accessory structure or accessory building shall be permitted to locate within a required planting strip.

5.30 Prohibited Uses

Except where provision is made in the **SCHEDULE "B": SPECIAL EXCEPTION ZONES** of this By-law, no land shall be used and no building or structure shall be erected, located or used in any Zone for any of the following purposes:

- a) Any use which is in contravention of this By-law and which is not a legally non-conforming use or a legally non-complying building or structure;
- b) Any use which is in contravention of the *Environmental Protection Act*, as amended;
- c) Any use which is classified as a health hazard by the *Health Protection and Promotion Act*, as amended, or any regulations thereto;
- d) The manufacturing, processing, use or storage of explosives except in a G1 Zone;
- e) The manufacturing of pesticides, herbicides or fungicides except in a G1 Zone; or
- f) The manufacturing of fertilizer from dead animals or from human or animal waste except in a Rural or Agricultural Zone as part of an agricultural operation.

5.31 Public Uses

- a) Nothing in this By-law shall prevent the use of any land including the erection of buildings or structures as a public use provided by or on behalf of the City of Welland, Regional Municipality of Niagara or Province of Ontario, the District School Board of Niagara, the Niagara Catholic District School Board, the Conseil scolaire de district du Centre Sud-Ouest, the Conseil scolaire de district catholique Centre-Sud, the Government of Canada, or any department or board of any of the above, any utility company, Niagara College of Applied Arts and Technology and Brock University.
- b) Nothing in this By-law shall prevent the use of any land for the erection of buildings or structures, or the installation of other facilities essential to the operation of water works, or sanitary operations, street lighting, cable and telephone lines, railways, and works for the transmission of gas, oil, water or electrical power or energy, provided that any such use, building or structure shall be in substantial compliance with the relevant provision of this By-law.
- c) The provisions of this By-law shall not be construed to limit or interfere with the construction, installation, occupation and maintenance of streets, roadways, water and gas pipelines, mains and conduits, sewers and sewer mains, and electrical transmission lines.
- d) Communications/telecommunications lines, pipelines or accessory structures used to provide regular access and maintenance to any such lines.

5.32 Regulation for Consolidated Lot Development

- a) Where two or more abutting lots under one identical ownership are consolidated for the purpose of development, the internal lot lines of the original lots shall not be construed to be lot lines for the purposes of any Zoning regulations provided that all applicable regulations of this By-law relative to the consolidated lot development and its external lot lines are complied with.
- b) Where a comprehensive Condominium Plan of Subdivision has received Draft Plan Approval, as well as any required Site Plan Approval, and where registration of the plan is intended to occur in phases and/or stages, the lands to which the Draft Approved Plan of Condominium is to be located, shall be deemed to be one lot for the purpose of applying the provision of the By-law. Zoning By-law provisions shall apply only to the external lot lines of the overall Condominium Plan, not to internal lot lines resulting from the registration of any Condominium phase.

5.33 Roomers and Boarders

Nothing in this By-law shall prevent the keeping of not more than four roomers or boarders in any single-detached dwelling, two-unit dwelling, street townhouse dwelling or multiple dwelling.

5.34 Seasonal Outdoor Display and Sales Area

Nothing in this By-law shall prevent an area set aside outside of a building or structure within a Commercial Zone which is used in conjunction with a lawful business located within the building or structure and located on the same lot, to be used for the display or retail sales of seasonal produce or new merchandise, provided such area:

- a) Is seasonal in nature and does not include a permanent retailing area; and
- b) Is not located within a fire lane, parking or loading spaces required to fulfill the provisions of the By-law or a driveway or passageway which provides an access route for vehicular traffic across the lot or to an improved street which abuts said lot.

5.35 Seasonal Outdoor Uses

Where permitted by this By-law, a seasonal outdoor use shall be subject to the following provisions:

- a) A seasonal outdoor use shall be prohibited on a vacant lot;

- b) A seasonal outdoor use shall not be located closer than 1.0 metres to any side or rear lot line;
- c) A seasonal outdoor use shall not be located closer to a street line than 3.0 metres; and
- d) A seasonal outdoor use shall not be located within a visibility triangle.

5.36 Setback Requirements Adjacent to a Provincial Highway

- a) Notwithstanding any other provision of this By-law, no person shall erect any building or structure within 14.0 metres of the boundary of a Provincial Highway.
- b) No person shall erect any building or structure without a permit from the Ontario Ministry of Transportation where such building or structure is:
 - i) Located within 45.0 metres of a Provincial Highway; or
 - ii) Located within 10.0 metres from the intersection of any road with a Provincial Highway; or
 - iii) Located within 395.0 metres of a Provincial Highway interchange.

5.37 Setback Requirements Adjacent to Railways

Notwithstanding any other provision of this By-law, a new dwelling on a lot abutting a railway right-of-way shall be setback 30.0 metres from the edge of the railway right-of-way with an intervening 2.5 metre high safety berm.

5.38 Sight Triangles

- a) Notwithstanding any other provision of this By-law, within a sight triangle as defined and required by this By-law, no person shall:
 - i) Erect any building, structure, opaque fence or use land within a sight triangle for the purpose of planting or growing of trees, or the planting or growing of hedges or shrubs to a height exceeding 1.0 metre measured from grade at the centreline of the street; and
 - ii) Use land in any sight triangle on a lot for the parking or storage of a vehicle; and
 - iii) For clarity, and without limiting the generality of the foregoing, no person shall use a sight triangle for any driveway, access, stacking lane, parking area or outdoor storage use.

- b) Notwithstanding any other provision of this By-law, a 5.0 metre by 5.0 metre sight triangle shall be required on a corner lot at any at-grade intersection of two or more streets or of a street and a rail line right-of-way.

5.39 Snow Storage Areas

An area equivalent to two percent of parking areas, loading spaces, private streets and driveways shall be required for snow storage for commercial, industrial or institutional uses, and residential uses where four or more parking spaces are required.

5.40 Swimming Pools and Hot Tubs

Notwithstanding any other provisions of this By-law, a private outdoor swimming pool and/or hot tub may only be erected and used in any interior side yard, exterior side yard or rear yard in accordance with the Pool Enclosure By-law, as amended, and the following provisions:

5.40.1 Distance from Lot Line

No person shall locate any part of a private outdoor swimming pool or hot tub, closer than 1.22 metres to any interior, exterior and rear lot line.

5.40.2 Treatment Equipment

Except where such equipment is located within a main or accessory building, no water circulating, heating or treatment equipment shall be located closer than 0.9 metres to any lot line.

5.40.3 Lot Coverage

A private outdoor swimming pool or hot tub shall not be considered part of the lot coverage.

5.40.4 Decks Associated with a Swimming Pool or Hot Tub

The provisions above shall not apply to a deck erected or used in association with a private outdoor swimming pool or hot tub. Decks shall be in accordance with Subsection 5.10.5 of this By-law.

5.41 Through Lots and Corner Lots

5.41.1 Through Lots

Where a lot which is not a corner lot has frontage on more than one street, the front yard requirements contained herein shall apply on each street in accordance with the provisions of the Zone or Zones in which such lot is located.

5.41.2 Corner Lots

Where a lot which is a corner lot has frontage on more than two streets, the shorter of the two shall be deemed to be front lot line and subject to the front yard requirements and the remaining street frontage shall be deemed to be the exterior side yard and subject to the exterior side yard requirement provisions of the Zone or Zones in which such lot is located. Where the frontage on both streets is equal, the City may deem any of the lot lines that divide the lot from the street as the front lot line.

5.42 Use of City Lands

The use of land owned by the City to erect or maintain a building, structure, fence, landscaping, retaining wall, step, or any other similar item, or for the use or storage of material or property, is not permitted, unless authorized in writing by the City.

5.43 Visual Barriers

- a) Where this By-law requires a visual barrier to be provided and maintained, such barrier shall act as a screen between uses and be constructed to a minimum height of 1.8 metres.
- b) Only that portion of a visual barrier consisting of a fence or wall shall have a maximum height of 2.5 metres and shall not be located within 3.0 metres of a street line.

5.44 Wayside Pits and Quarries and Portable Asphalt and Concrete Plants

Wayside pits and quarries and portable asphalt and concrete plants used for public authority contracts are permitted in all Zones without *Planning Act* approvals except in those areas zoned RL1, RL2, RM or RH or in an EP Zone.

