

SECTION 6 - GENERAL PROVISIONS

6.1 ACCESSORY USES

(a) GENERAL

Where this By-law provides that a lot may be used or a building or structure may be erected or used for a purpose, that purpose shall include any accessory building or structure or accessory use, but shall not include any building used for sleeping or eating accommodations, human habitation except as otherwise specifically permitted in this By-law or in Subsection 6.1 (c) below.

(b) Except as otherwise provided herein, in a Residential Zone any accessory building or structure which is not part of the main building shall be erected in the rear yard or interior side yard, and shall not be located closer to any rear lot line or side lot line than 1.0m or closer to any street than the required yard therefrom for dwellings, except that a detached garage or carport which faces the exterior side lot line shall be located no closer than 6.0 m to the exterior side lot line. Eaves and gutters may project a maximum of 0.25 m into the required yard except as otherwise provided herein.

(c) Except as otherwise provided herein, in a Residential Zone an accessory building may be used for or contain a maximum of one (1) Detached Accessory Dwelling Unit on the same lot provided there are not more than two (2) dwelling units in the main dwelling. If located in or added onto an accessory building that existed prior to By-law 12-2024 being approved on January 29, 2024 the Detached Accessory Dwelling Unit is subject to the regulations of Subsection 6.1 (b), (d) and (e). If located in a new accessory building the Detached Accessory Dwelling Unit is subject to the regulations of Subsection 6.43 (g).

(d) MAXIMUM HEIGHT

Except as otherwise provided herein, a building or structure accessory to a residential use shall not exceed 4.5m in height nor contain more than one storey, except that such accessory buildings or structures covered by a flat roof shall not exceed 3.7m in height nor contain more than one storey.

(e) LOT COVERAGE

The total lot coverage of all accessory buildings on a lot shall not exceed 10% of the lot area, except as otherwise permitted in this By-law.

(f) UNDERGROUND PARKING

The yard requirements of this By-law shall not apply to underground parking structures.

(g) DELETED

(h) SATELLITE DISH ANTENNA

Satellite dish antenna shall be subject to the accessory building provisions of this By-law except:

- (i) satellite dish antenna shall only be permitted in the rear yard in any zone or any rear yard or interior side yard in a Commercial Zone or Industrial Zone beyond the minimum requirements for any such yard.
- (ii) satellite dish antenna shall be permitted on the roof of a principle structure in any commercial zone or industrial zone.

(i) MAIN USE

No accessory structure shall be constructed prior to the construction of the main building or use.

6.2 COURTS AND YARDS

(a) WIDTH OF COURTS

The least horizontal dimension of any court shall not be less than the height of the highest building abutting such court.

(b) BUILDING ADDITIONS

Where the erection of one or more additional storeys is proposed on a building and where the existing court or yard areas appurtenant to such building would not conform to the requirements of this By-law subsequent to such erection, no such erection shall be permitted except where:

- (i) the addition is located so as to comply with the requirements of this By-law with respect to courts and yards at the level of the base of such addition; and
- (ii) the addition complies in all other respects with the provisions of this By-law.

6.3 DWELLING UNITS

(a) LOCATION WITHIN NON-RESIDENTIAL BUILDING

Where a dwelling unit is located within or attached to a non-residential building, such building and dwelling unit shall comply with the yard provisions of this By-law which apply to the said non-residential building, provided that any wall containing a window of a habitable room, where such room does not have any other window or windows in any other walls having a total glazed area of at least 10% of the floor area of the said room, shall be

located not less than 2.5 m from any side lot line.

6.4 EXTERNAL DESIGN

The following building materials shall not be used for the exterior vertical facing on any wall of any building or structure within the Corporation:

- (a) building paper, tar paper or equivalent weather protection paper; or
- (b) asphalt roll-type siding.

All plans and specifications for all buildings and structures shall be approved in accordance with **The Ontario Building Code Act, 1992**.

6.5 FRONTAGE ON PUBLIC STREETS AND PRIVATE STREETS

- (a) 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 entirely upon an improved public street, or entirely upon an improved private street only in accordance with Sections 6.5 (b) and (c).
- (b) For the purpose of this subsection an "improved public street" means a street which has been constructed according to Municipal standards and is maintained by the Town so as to permit its use year-round by normal vehicular traffic. An "improved private street" means a private lane or right-of-way which has been constructed to the satisfaction of the municipality to permit its use year-round by normal vehicular traffic.
- (c) Nothing in this By-law shall prevent the erection of, restoration of, or addition to a dwelling or accessory building or structure upon a "lot of record" which is accessed via a private street, subject to the provisions of the zone in which the lot is located.
 - (i) For the purposes of this subsection, a "lot of record" means a lot as defined in Section 5.194 of this Zoning By-law, and which "lot of record" has been created prior to passage of this Zoning By-law.
 - (ii) For the purposes of this By-law, the front lot line shall be deemed to be the lot line which divides the lot from the private street and all other lot lines shall correspond thereto. In the case of a corner lot, the lot line with the shortest frontage on a private street shall be deemed to be the front lot line, and the longest frontage shall be deemed to be the exterior side lot line.

6.6 GROUP HOMES

- (a) Only group homes licensed by the Ministry of Community and Social Services in the following categories shall be permitted:
- Satellite Residence for Seniors
 - Accommodation Services for the Developmentally Handicapped
 - Children's Residences
 - Homes for Special Care
 - Supportive Housing Programs, Adult Community Mental Health Programs
 - Homes for Physically Disabled Adults provided the province licences, funds, or approves a group home program for physically disabled adults
 - Approved Homes
- (b) A group home shall have a maximum of eight residents excluding staff or receiving family in a single detached dwelling, semi-detached dwelling, street townhouse dwelling, block townhouse dwelling or apartment dwelling.

6.7 HEIGHT EXCEPTIONS

Nothing in this By-law shall apply to restrict the height of the following structure in any zone within which the structures are permitted.

- (a) an antenna;
- (b) a barn;
- (c) a belfry;
- (d) a chimney;
- (e) a church spire;
- (f) a clock tower;
- (g) an elevator or stairway penthouse;
- (h) a flag pole;
- (i) a hydro-electric transmission tower;
- (j) an ornamental structure;
- (k) a radio antenna;
- (l) a silo;
- (m) a steeple;
- (n) a structure containing heating, cooling, or other mechanized equipment pertaining to a building;
- (o) a tower;
- (p) a water tower;
- (q) a windmill

provided that no such structure, other than a public use occupies in excess of 5% of the lot area of the lot where such structure is located, or where such structure is located on the roof of the building, shall exceed 10% of the building area. Building

area is the greatest horizontal area of a building within the outside surface of exterior walls.

6.8 HOME OCCUPATIONS

No home occupation shall be permitted in any zone unless such home occupation complies with the following provisions:

(a) DWELLING UNIT

- (i) Except as provided in Subsection 6.8(i), the home occupation shall be permitted in any dwelling, within any zone that includes a dwelling as a permitted use.
- (ii) Home occupations shall be clearly incidental and secondary to the main residential use and shall not change the residential character of the dwelling.
- (iii) The total floor area occupied by one or more home occupations shall not exceed 25% of the aggregate area of the dwelling and accessory structures or 40 square metres, whichever is less, except this restriction shall not apply to "day nurseries" or "bed and breakfast establishments" as defined herein.
- (iv) Any number of home occupations may be permitted within a dwelling unit provided the cumulative maximum gross floor area does not exceed the requirements of Section 6.8 (a) (iii).
- (v) Home occupations shall be operated by the occupant(s) of the dwelling and may employ a maximum of one (1) employee that does not reside in the dwelling.
- (vi) The home occupation shall not create electronic interference, dust, noise, odour, smoke or anything of an offensive or objectionable nature, which is detectable to normal sensory perception outside the building containing the use.

(b) ACCESSORY STRUCTURES

- (i) Home occupations may be permitted within accessory structures provided that they are conducted wholly within the enclosed structure and the aggregate area occupied by the home occupation within the dwelling and accessory structures combined does not exceed the requirements of Section 6.8 (a) (iii).

(c) ADVERTISING AND SIGNAGE

- (i) Only one (1) non-illuminated sign having a maximum gross area of 0.3 square metres shall be permitted on the property to advertise the home occupation. The sign shall not be located within a daylighting triangle and shall not be closer than 1 metre to a property line.
- (ii) There shall be no external display or advertising other than a sign that meets the requirements of Section 6.8 (c) (i), to indicate to persons outside that any part of the dwelling and/or accessory structure is being used for a purpose other than residential.

(d) OUTSIDE DISPLAY AND SALE OF GOODS AND MATERIALS

- (i) There shall be no outside display or sale of goods and materials.
- (ii) Notwithstanding Section 6.8 (d) (i), the retail sale of plant material grown on site shall be permitted as a home occupation within any yard, subject to the following:
 - Structures used for the sale of plant material grown on site shall be temporary. For the purposes of this subsection, “temporary” shall mean the structure is removed from the yard and stored within an enclosed structure or off-site each day;
 - The total area of the site used for the outside sale and display of plant material grown on site shall not exceed 6 square metres; and
 - The outside sale and display of plant material grown on site shall not be permitted closer than 3 metres to any property line.

(e) PARKING

- (i) One (1) off-street parking space shall be provided on the lot occupied by the home occupation in addition to the minimum parking required for the dwelling unit.
- (ii) Where a non-resident employee, partner or associate is affiliated with the home occupation, two (2) off-street parking spaces shall be provided on the lot occupied by the dwelling in addition to the minimum parking required for the dwelling.
- (iii) All required parking for home occupations shall be provided on a parking area.

(iv) Where a home occupation is located within a dwelling which does not have an individual driveway providing access to said dwelling or is within an apartment dwelling, the home occupation shall be limited to one (1) office only, no non-resident employee, partner or associate or client shall be permitted, and, notwithstanding Section 6.8 (a) (iii), the floor area of the home occupation shall not exceed 10 square metres.

(f) PERMITTED AND PROHIBITED USES

- (i) No manufacturing activity involving the processing of raw or semi-processed materials shall be carried out in conjunction with a home occupation except for the fabrication of handmade goods or crafts.
- (ii) Facilities associated with a personal service shop conducted as a home occupation shall be limited to accommodate a maximum of two customers at any given time.
- (iii) Retail sales shall be limited to items that are prepared within the area associated with the home occupation or which are accessory to the home occupation and shall not occupy more than 10 square metres.
- (iv) A repair service shall be limited to the repair of personal effects and small household appliances such as electronic equipment, bicycles, apparel, furniture, toys and sporting goods. The repair of household appliances and equipment that have oil and grease-filled transmissions such as lawn care equipment, other power equipment, major appliances and vehicles is prohibited.
- (v) The home occupation shall not involve the use of the lot or dwelling as a base for persons who are non-resident employees, partners or associates of the home occupation but work off-site, nor shall the lot or dwelling be used for the assembly of persons who require transportation to a work site.
- (vi) The home occupation shall not involve the shipping or receiving of goods or materials by commercial motor vehicles other than automobiles or delivery vans used by courier services.
- (vii) In the conduct of a home occupation, no mechanical equipment, except that ordinarily used for household tasks or recreational hobbies, shall be used. No mechanical equipment associated with the home occupation shall be operated in any yard.
- (viii) The following uses are prohibited as home occupations:
 - Adult entertainment establishments

- Amusement machine establishment
- Animal hospital
- Automotive use
- Construction trades establishment
- Dry cleaning outlet
- Dry cleaning plant
- Funeral home or parlour
- Industrial uses
- Hairdresser or barber with three or more chairs
- Laundry or laundromats
- Kennels
- Pet day care establishment
- Restaurants
- Taverns
- Veterinary clinic
- Wholesale

- (ix) Notwithstanding anything else in this by-law to the contrary, “in-home pet boarding” shall be permitted as a home occupation.

(g) STORAGE

- (i) No part of any lot in which a home occupation is situated shall be used as an open storage area.
- (ii) Storage for the home occupation may be provided within accessory structures provided that the aggregate area of the storage area within the accessory structure and home occupation do not exceed the maximum area specified in Section 6.8 (a) (iii).

(h) SITE PLAN CONTROL

- (i) Where new development for a home occupation is proposed, the Town may impose site plan control in accordance with By-law 143-03, as amended or replaced, at the discretion of the Director of Community and Development Services.

(j) BED & BREAKFAST ESTABLISHMENTS

A Bed & Breakfast Establishment is permitted as a home occupation subject to the following additional requirements:

- (i) The Bed & Breakfast Establishment may be operated in a single detached dwelling only which does not contain an accessory apartment dwelling, or another home occupation and the owner/leasee/proprietor is a permanent resident.

- (ii) In addition to the required parking for the residential dwelling, one (1) parking space shall be provided on site for each guest room proposed for the Bed & Breakfast Establishment and such parking shall be allowed to be provided on site in a tandem parking space. Notwithstanding any requirements of this subsection, Bed & Breakfast Establishments located along Niagara Boulevard shall also comply with the requirements of the Niagara Parks Commission.
- (iii) One (1) sign having a maximum area of 0.3 square metres shall be permitted on the property to advertise the Bed & Breakfast Establishment. The sign shall not be located within a daylighting triangle and shall not be closer than 1 metre to a property line.
- (iv) No meals shall be served to guests other than breakfast.
- (v) Not more than three (3) guest rooms shall be available for hire.
- (vi) Bed & Breakfast Establishments shall also be permitted as a home occupation in an existing single detached dwelling located in a “General Commercial C2 Zone”, “Central Business District Commercial C2A Zone”, “Highway Commercial C3 Zone”, “Core Mixed Use 2 CMU2 Zone” “Recreational Commercial C5 Zone” and a “Rural Commercial C7 Zone”.

6.9 DELETED BY BY-LAW 123-03

6.10 LANES AS YARDS (Deleted by By-law 128-2018)

6.11 LIGHTING

(a) LIGHTING

Lighting fixtures designed to provide exterior illumination on any lot shall be installed with the light directed or deflected away from adjacent lots and streets and in such a manner as to not confuse persons driving vehicles on such streets.

6.12 LOADING SPACE REGULATIONS

(a) LOADING SPACE REQUIREMENTS

The owner or occupant of any lot, building or structure used or erected for any purpose involving the receiving, shipping, loading or unloading of animals, goods, wares, merchandise or raw materials, other than a farm, shall provide and maintain, on the same lot, facilities comprising one or more

loading spaces in accordance with the provisions of the following requirements:

Type of use	Total Gross Floor Area of Building and Structure	Minimum Number of Loading Spaces
Commercial	Less than 929 sq. m Over 929 sq. m	None 1 loading space
Industrial	Less than 1,400 sq. m Over 1,400 sq. m	None 1 loading space

(b) **CALCULATION OF LOADING SPACE REQUIREMENTS**

When a part of a loading space is required in accordance with this By-law, such part shall be considered 1 loading space for the purpose of calculating total loading space requirements.

(c) **DIMENSIONS OF LOADING SPACES**

A loading space required hereby shall have minimum dimensions of 3.5 m by 9 m and a minimum vertical clearance of 4 m.

(d) **LOCATION OF LOADING SPACES**

The required loading spaces shall be provided on the same lot occupied by the building or structure for which the said loading spaces are required and shall not form a part of any street or lane.

(e) **YARDS WHERE PERMITTED**

Loading spaces shall be permitted in any yard other than a required front yard or a required exterior side yard, provided that:

- (i) no part of any loading space shall be located between the street line and the main wall of the building; and
- (ii) no part of any loading space shall be located closer than 1 m to any interior side lot line or rear lot line.
- (iii) no part of any loading space shall be located closer than 4.5m to any residential zone nor any property containing a residential dwelling.

(f) **ACCESS TO LOADING SPACES**

Access to loading spaces shall be by means of an unobstructed driveway at least 3.5 m in width in Commercial Zones and at least 6.0 m wide in

Industrial Zones and contained within the lot on which the loading spaces are located and leading to either an improved street or lane not less than 7.5 m in width.

(g) **ADDITION TO EXISTING USE**

When a building or structure has insufficient loading spaces on the date of passing of this By-law to comply with the requirements herein, this By-law shall not be interpreted to require that the deficiency be made up prior to the construction of any addition provided, however, that any additional loading spaces required by this By-law for such addition are provided in accordance with all provisions hereof respecting loading spaces.

(h) **LOADING SPACE SURFACE**

The driveways, loading and unloading spaces shall be maintained with a stable surface which is treated so as to prevent the raising of dust or loose particles, the details of which are being regulated through Site Plan Control.

6.13 LOT REQUIREMENTS

(a) **DWELLINGS**

A legal single detached dwelling, semi-detached dwelling, street townhouse dwelling and block townhouse dwelling may have up to two (2) Accessory Dwelling Units that are added onto or contained within the main dwelling. One Detached Accessory Dwelling Unit may be permitted in an accessory building on the same lot provided the main dwelling does not exceed more than one (1) Accessory Dwelling Unit.

(b) **OTHER USES**

Except as otherwise provided in this By-law, no building or structure shall be erected, altered, extended or enlarged except upon a lot, nor shall any land be used for any permitted use unless it comprises a lot; but this provision shall not prevent the use of any parcel or tract of land for agricultural purposes excluding the erection or enlargement of any building or structure except a fence.

6.14 LOT AREA/FRONTAGE REDUCTION

(a) **PROHIBITION**

No person shall reduce the lot area, or make any changes in the dimensions of a lot as required by this By-law by the conveyance or alienation of any

portion thereof or otherwise, except at the discretion of the Town of Fort Erie Committee of Adjustment or except by a conveyance in accordance with Clause (b) of this subsection, so that any building or structure on such lot shall have a lot coverage that exceeds, or a front yard depth, side yard depth, rear yard depth, lot frontage, lot area or lot depth that is less than that permitted by this By-law.

(b) LOTS REDUCED BY PUBLIC ACQUISITIONS

Where the area of a lot is reduced by means of an acquisition of part of the lot by a public agency for the purpose of providing a public service, and where such acquisition causes the lot to be reduced, or any building or structure

existing lawfully on the lot on the date of such acquisition to have a lot area, lot frontage, lot depth, lot coverage, front yard depth, side yard depth or rear yard depth that does not conform to the requirements hereof for the zone in which such lot is located, then the lot as reduced shall continue to be used as if no such acquisition had taken place, provided that:

- (i) no change is made in the dimensions or area of the lot as reduced, subsequent to the date of such acquisition, that would increase the extent of the said non-conformity; and
- (ii) no building, structure or addition is erected on the lot as reduced, subsequent to the date of such acquisition, except in accordance with all of the provisions hereof for the zone in which such lot is located.

6.15 LOTS WITH MORE THAN ONE USE OR ZONE

(a) MORE THAN ONE USE:

- (i) Where a lot contains more than one permitted use defined separately herein, other than an accessory use, each such use shall conform to the provisions of this By-law which are applicable to such use in the Zone in which the said lot is located as if such use existed independently of any other use.
- (ii) Where standards or provisions pertaining to 2 or more uses on one lot are in conflict, the highest or most restrictive standards or provisions shall prevail.

(b) MORE THAN ONE ZONE

Except as otherwise provided in Paragraph (ii) of this Clause, where a lot is

divided into two or more zones, each such portion of the said lot shall be considered separately and shall be used in accordance with the regulations of this By-law which are applicable to the zone wherein such portion of the said lot is located.

- (i) Where this By-law provides that a lot may be used or a building or structure may be erected or used for a purpose, that purpose shall include any accessory building or structure or accessory use but shall not include any building used for sleeping or eating accommodations human habitation except as in this By-law is specifically permitted.
- (ii) Except as otherwise provided in Paragraphs (i) and (ii) of this Clause, where a lot is divided into two or more zones, and one of those zones is an Environmental Protection (EP) Zone, the regulations of this By-law shall not apply to required setbacks from the Environmental Protection (EP) Zone or to restrict building coverage to be calculated based on such portion exclusive of the Environmental Protection (EP) Zone.
- (iii) Notwithstanding anything to the contrary in Paragraph (i) of this Clause, where the use of a lot divided into 2 or more zones are permitted in all such zones, the said lot shall be considered to be a single lot as defined herein and the highest or most restrictive zone requirements pertaining to such use or uses in all the said zones shall apply throughout the said lot.

6.16 MUNICIPAL SERVICES

No person shall, within any Residential Zone, except as provided for in the Rural Residential (RR) Zone or Waterfront Rural Residential (WRR) Zone, erect, alter or use any building or structure unless such lot is serviced by a public water supply and sanitary sewer system.

6.17 NEW DEVELOPMENT IN OR ADJACENT TO AN AGRICULTURAL (A) ZONE, RURAL (RU) ZONE OR RURAL RESIDENTIAL (RR) ZONE

- A. 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 by this By-law, shall be erected or altered after the date of passage of this By-law, unless it complies with the Minimum Distance Separation (MDS 1) calculated using Schedule “C” to this By-law or the most up-to-date software authorized for use by the Ontario Ministry of Agriculture, Food and Rural Affairs.
- B. 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) calculated using Schedule “C” to this By-law or the most up-to-date software authorized for use by the Ontario Ministry of

Agriculture, Food and Rural Affairs.

6.18 NON-CONFORMING USES, BUILDINGS, STRUCTURES AND LOTS

(a) DISCONTINUATION OF USE

Where a use, building or structure which was established prior to the date of the passing of this By-law has been used for a purpose not permitted in the zone in which it is situated but said use has been discontinued for a period of twelve consecutive months or longer, the said building or structure may only be used again for a use that conforms to this By-law.

(b) REPAIR TO A SAFE CONDITION

Nothing in this By-law shall prevent the repair to a safe condition of an existing building or structure, even though such building or structure or the lot on which such building or structure is located does not conform to one or more of the provisions of this By-law, provided that the dimensions of the original building or structure are not increased, the use thereof is not altered and the yards appurtenant thereto are not reduced except in accordance with the provisions of this By-law.

(c) CHANGE OF USE

A use of a lot, building or structure which under the provisions hereof is not permissible within the zone in which such lot, building or structure is located shall not be changed except to a use which is so permissible within such zone.

(d) EXTENSIONS PERMITTED

Notwithstanding the provisions of this By-law where a building erected prior to the date of passing of the By-law has less than any or all of the yard requirements established herein, such buildings may be enlarged, and as enlarged, may be used for any of the purposes permitted in which the lot is located and the walls of the building as it presently exists, shall be deemed to have established the minimum front yard, side yard, flanking yard, and rear yard requirements provided however that all other applicable provisions of this By-law shall be complied with, and that no extensions or additions will be permitted in a Hazard Zone.

(e) LOT AREA AND/OR FRONTAGE LESS THAN REQUIRED

Where a lot having a lesser lot area or lot frontage than that required herein

(i) is the same as in a deed registered on or prior to the date of passing

of this By-law; or

- (ii) is a consolidation of adjacent lots described in deeds registered on or prior to the date of passing of this by-law, or
- (iii) was subject to a consent approved prior to the date of passing of this By-law, and was subsequently conveyed or is the remnant part of such a lot after such a conveyance and thereafter continuously held in distinct and separate ownership from abutting registered lot; or
- (iv) is a whole lot located within a registered plan of subdivision; and

such parcel complies with relevant regulations made under The Environmental Protection Act, R.S.O. 1990 and all relevant requirements of the Ontario Building Code, and has a minimum lot frontage of 12m;

then the said lot shall be deemed to conform to the requirements of this By-law with respect to lot area and lot frontage, and the provisions hereof respecting lot area and lot frontage shall not apply to prevent the use of such lot, or the erection, alteration or use of a permitted building or structure thereupon, in accordance with all other provisions hereof.

6.19 OUTSIDE DISPLAY AND SALE OF GOODS AND MATERIALS

No outside display and sale of goods and materials, including vehicles, shall be permitted on any lot in any zone, except in accordance with the following provisions:

- (i) Outside display and sale shall be accessory to a permitted or existing commercial use carried on in an enclosed building or portion thereof on the same lot.
- (ii) No parking spaces required by this By-law shall be used for outside display and sale purposes.
- (iii) Notwithstanding any other provision of this By-law to the contrary, any area used for outside display and sale shall be located not closer than 3 m to any lot line.

6.20 PARKING AREA REGULATIONS

A. Every building or structure erected, enlarged or used in accordance with the provisions of this By-law, shall:

- (i) be provided with the required number of parking spaces specified hereunder;

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- (ii) except that this provision shall not apply within the “Central Business District Commercial (C2A) Zone”, “Core Mixed Use 2 (CMU2) Zone”, “Core Mixed Use 4 (CMU4) Zone”, “Core Mixed Use 5 (CMU5) Zone” or “Core Mixed Use 6 (CMU6) Zone” as designated on Schedule “A” attached hereto or shall be exempt from the provision of parking spaces in accordance with an agreement with Council pursuant to Section 39 of **The Planning Act, S.O. 1990**;

(ii) DELETED BY BY-LAW 130-11

TYPE OF USE	MINIMUM PARKING REQUIREMENT
RESIDENTIAL USES	
Residential (other than listed herein)	1 parking space per dwelling unit
Apartment Buildings	1.5 parking spaces per dwelling unit
Block Townhouse Dwellings	1.5 parking spaces per main dwelling unit. 1 parking space per Accessory Dwelling Units/Detached Accessory Dwelling Unit.
Assisted Living House and Homes for the Aged	0.5 parking space per resident

COMMERCIAL USES	
Hotels and Motels	1 parking space per guest room, plus parking for any on-site restaurant or tavern provided in accordance with regulations in this By-law
Bingo Hall	1 parking space per 1.5 sq. m. of floor area devoted to public use
Tavern	1 parking space for every 3.0 sq. m. of gross floor area
Eating Establishment – Take-out or Drive-In	1 parking space for every 30 sq. m. devoted to public use
Eating Establishment – Eat-in	1 parking space per 4 persons seating capacity
Offices and Public Buildings	1 parking space for every 28 sq.m. of gross floor area
Bowling Alley	3 parking spaces for every bowling lane
Curling Rink	4 parking spaces for every curling sheet

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COMMERCIAL USES	
Retail Store, Shop or Workshop (excluding furniture stores and factory outlets)	1 parking space for every 30 sq.m. of gross floor area
Furniture Store, Factory Outlet, Warehouse Showroom	1 Parking space for every 100 sq.m. of gross floor area
Shopping Centre	1 parking space for every 20 sq.m. of gross floor area
Automobile Service Station	1 parking space for every 50 sq.m. of gross floor area
Other Commercial Uses	1 parking space for every 30 sq.m. of gross floor area
Marina	1 parking space for every 2 slips
Customs Broker	1 parking space for every 20 sq.m. of gross floor area with a minimum of 3 parking spaces
Gaming Premises	4 parking spaces per game table (By-law 235-1993)
Short-Term Rental	One (1) parking space for three (3) or more bedrooms in addition to the required parking for the dwelling unit. Tandem parking is permitted.
Supermarket	1 parking space for every 20 sq. m. of gross floor area
Farm Winery	1 per employee, plus 1 per every 20 sq.m of gross floor area
Gaming Facility	1.25 parking spaces per gaming position

PUBLIC AND INSTITUTIONAL USES	
Hospitals and Nursing Homes	1 parking space for every 2 beds
Assembly Hall, Community Centre, Theatre, Auditorium, Place of Worship	The greater of: a) 1 parking space per 5 fixed seats or fraction thereof; or b) 1 parking space for every 5 persons maximum design capacity; or c) 1 parking space per 15 sq. m of

PUBLIC AND INSTITUTIONAL USES	
	gross floor area.
School, Elementary	1.5 parking spaces per classroom and 1 space for every 9 sq. m of floor area for any gymnasium or auditorium.
School, Secondary	The greater of: a) 1 parking space per 5 classroom seats; or b) 1 parking space per 15 sq. m of floor area in the gymnasium; or c) 1 parking space per 15 sq. m of floor area in the auditorium.
Undertaking Establishment	1 parking space per 5 persons seating capacity in a chapel or auditorium or a minimum of 10 parking spaces per visitation room.
Day Care Centre	4 parking spaces for every 100 sq. m. of gross floor area
INDUSTRIAL USES	
Industrial Establishment	1 parking space for every 180 sq. m. of gross floor area or every 2 employees, whichever is the greater.

B. CALCULATION OF PARKING REQUIREMENTS

- (i) Where a part of a parking space is required in accordance with this By-law for the use listed in Subsection 6.20 (A) of this Subsection, such part shall be considered 1 parking space for the purpose of calculating the total parking requirement for the said use.
- (ii) Where a building, structure or lot accommodates more than one type of use as set out in Subsection 6.20 (A) of this Subsection, the total parking space requirements for such building, structure or lot shall be the sum of the requirements for the separate uses thereof, except that in the case of a shopping centre, the uses of which have not been clearly determined at the time of construction, the parking space requirement for shopping centre shall

apply.

- (iii) Parking spaces required in accordance with this By-law shall not include any parking spaces used or intended to be used primarily for the storage or parking of vehicles for hire and gain, display or sale.
- (iv) Where the number of parking spaces required in accordance with Clause (C) of this Subsection is based upon the seating or other capacity of a building or structure, such capacity shall be deemed to be the same as the maximum capacity for such building or structure permitted by The Ontario Building Code, or where applicable, The Liquor Licensing Board of Ontario, whichever capacity is the lesser, except that where seating is provided in the form of fixed benches or pews, 0.6 m of each such bench or pew shall be considered as equally one seat.
- (v) Shared use of the same off-street parking spaces to meet the requirements of a gaming premises and other uses may be permitted, where the normal peak hours of operation of such uses are such as to assure the feasibility of such joint use of parking, and where the total quantity of spaces provided is at least equal to the total of the projected parking demand for uses in operation at any given time. (BY-LAW 235-93).

C. PARKING AREA SURFACE

Each parking area and driveway connecting the parking area with a street shall be maintained with a stable surface which is treated so as to prevent the raising of dust or loose particles, the details of which being regulated through Site Plan Control provided that:

- (i) in the case of a dwelling containing 4 or more dwelling units, such parking area and driveway shall be paved with an asphaltic or concrete surface, or such other hard surface as may be acceptable to the Town and be bounded by poured concrete curbs.
- (ii) in the case of Prestige Industrial and Commercial Zones, all *required* parking areas and loading areas and their approaches shall have a cement or asphaltic binder or other permanent type of surfacing and bounded by poured concrete curbs.
- (iii) in the case of Dry Industrial and Industrial zones all parking areas and loading areas and their approaches shall be in accordance with Section 6.12 (h).

D. INGRESS AND EGRESS

- (i) Requirements by Zone
 - 1. In Commercial and Industrial Zones, ingress and egress, to and from the required parking spaces and areas, shall be provided by means of unobstructed driveways or passageways at least 3.0 m, where only one-way traffic is permitted and have a minimum width of 7.5 m but not more than 12m in perpendicular width where two-way traffic is permitted.
 - 2. In C2A, CMU2 and CMU4 Zones an access drive width of 3 meters to a rear parking lot that has 5 or less spaces, a 4.5 meter access drive width where 10 or less parking spaces are required and 6.0 meters where more than 10 spaces are required.
 - 3. In Residential Zones, ingress and egress, to and from the required parking spaces and areas, shall be provided by means of unobstructed driveways or passageways at least 3.0 metres, where only one-way traffic is permitted and have a minimum width of 6.0 m but not more than 9.0 metres in perpendicular width where two-way traffic is permitted.
- (ii) The maximum width of any joint ingress and egress driveway ramp in a Commercial or Residential Zone measured along the street line shall be 9.0 m.
- (iii) The minimum distance between a driveway and an intersection of street lines measured along the street line intersected by such driveway shall be 7.5 m.
- (iv) Except in Residential zones, the minimum distance between driveways measured along the street line intersected by such driveways shall be 7.5 m.
- (v) The minimum angle of intersection between a driveway and a street line shall be 60 degrees.
- (vi) Every lot shall be limited to the following number of driveways:
 - 1. up to the first 30.0 m of frontage - not more than 2 driveways; and
 - 2. for each additional 30.0 m of frontage - not more than 1 additional driveway.
- (vii) Notwithstanding the requirements of items (i) through (vi) above, the

ingress and egress requirements of the Regional Municipality of Niagara, The Ministry of Transportation Ontario, and The Niagara Parks Commission shall apply along all Regional Roads, Provincial Highways, and the Niagara River Parkway.

- (viii) Nothing in this By-law shall prevent the obstruction of a driveway by a gate, a temporary barrier or similar obstruction used solely to restrict access to the said driveway and designed to be otherwise opened or removed when necessary to permit passage of a vehicle. On Regional Roads and Provincial Highways, all such gates and barriers should be set back from the property line to allow the temporary stopping of a vehicle so that the vehicle while stopped is entirely contained within the property limits and does not overhang the public road allowance.
- (ix) Nothing in this Subsection shall apply to prevent the use of a right-of-way as a means of obtaining access to a parking area provided the said right-of-way has been legally established for such purpose.

(E) ILLUMINATION

Where parking areas are illuminated, lighting fixtures shall be arranged, designed and installed so that the light is directed downward and deflected away from adjacent lots and travelled public streets.

(F) MORE THAN ONE USE ON A LOT

When a building or structure accommodates more than one type of use as set out in paragraph (A) of this subsection, the parking space requirement for the whole building shall be the sum of the requirements for the separate parts of the building occupied by the separate types of use.

(G) ADDITIONS TO BUILDINGS

The parking area requirements referred to herein shall not apply to any building lawfully in existence at the date of passing of this By-law so long as the floor area as it existed at such date is not increased and the building or structure is used for a purpose which does not require more parking spaces, according to Subsection 6.20 (A), than were required by its use at the date of passing of this By-law. If an addition or a change of use is made to a building or structure as it existed at the date of passing of this By-law, then additional parking spaces shall be provided to the number required for such addition or change in use, provided that this paragraph shall not apply to require the establishment of a parking space and areas for single detached dwellings which existed at the date of the passing of this By-law.

(H) OTHER PARKING REGULATIONS

- (i) Nothing in this By-law shall prevent the erection of a shelter for the use solely by parking attendants in any part of a parking area, except within a sight triangle, provided such shelter is not more than 4.5 m in height and has a floor area of not more than 5 sq. m.
- (ii) No gasoline retail outlet or automobile service station shall be located or maintained on any parking area except where specifically permitted in this By-law.
- (ii) No commercial motor vehicle of greater than one tonne maximum capacity and/or no bus used as a commercial motor vehicle designed for carrying 10 or more passengers and used for the transportation of persons, shall be parked or stored in a Residential Zone.
- (iii) Notwithstanding any other provision in this by-law to the contrary, event parking is permitted in any Commercial or Core Mixed Use Zone.

(I) PARKING AREA LOCATION ON LOT

Notwithstanding the yard provisions of this By-law to the contrary, uncovered surface parking areas shall be permitted in the required yards as follows:

ZONE	YARD IN WHICH REQUIRED PARKING AREA PERMITTED
R1, R2, R3, A, RU, RR, WR, WRR	All yards. A Parking Area for a residential use containing more than 3 dwelling units shall be located in the rear yard only.
RM1, RM2	All yards provided that no part of any parking area, other than a driveway, is located closer than 3.0 m to any street line and any lot line.
C1, C2, C2A, C3, C4, C5, C6, C7, CMU1, CMU2, CMU3, CMU4, I, OS, P	All yards provided that no part of any parking area, other than a point of ingress/egress, is located closer than 3.0 m to any street line or to any residential zone, except a parking area may be located 0 m from a rear access laneway in C2A, CMU2 and CMU4 Zone.
IN, DI, PI	All yards, provided that no part of any parking area, other than a point of ingress/egress, is located closer than 4.5 m to any street line or to any

ZONE	YARD IN WHICH REQUIRED PARKING AREA PERMITTED
	residential zone.

(J) DIMENSIONS OF PARKING SPACES

A parking space required hereby shall be in accordance with Schedule "D", except:

- (i) except as otherwise provided in this Clause, where the side of a parking space abuts either a lot line or a wall, a column, a pillar, a tree, a fence, a pole or other obstruction or part thereof which is 0.5 m or more in height above the level of such parking space, the minimum width of the said parking space shall be 3.0 m; and
- (ii) except as otherwise provided in this Clause, where a parking space abuts an area of landscaped open space or a pedestrian walkway greater than 1.0 m in width and located on the same lot therewith, the minimum width of such parking space shall be 2.4 m.

(K) PARKING STRUCTURES

- (i) Where a parking area located in a structure constitutes the main use on a lot, then such structure shall conform to all the zone provisions for the zone in which such lot is located.
- (ii) Where a parking area located in a structure is accessory to a permitted use on a lot, then such structure shall conform to all the provisions for accessory uses set out in Subsection (I) of this Section.

(L) UNDERGROUND PARKING AREAS

Nothing in this By-law shall apply to prohibit the location of underground parking areas in any yard, provided that:

- (i) no part of any underground parking area shall be situated above finished grade in any required yards; and
- (iv) no part of any underground parking area shall be located within the limits of a street.

(M) ACCESSIBLE PARKING SPACES (By-law 130-11)

SECTION 6 – GENERAL PROVISIONS
TOWN OF FORT ERIE COMPREHENSIVE ZONING BY-LAW 129-90
OFFICE CONSOLIDATION

Parking spaces designated under Section 6.20 (M) shall include Van Accessible (Type A) and Standard (Type B) Parking Spaces.

- (i) Type A parking spaces shall:
 - a) Where provided outdoors, have a minimum height clearance of 2.75 m
 - b) Where provided indoors, have a minimum height clearance of 2.59 m
 - c) Be at least 3.4 m wide
 - d) Be at least 6.0 m long
 - e) Have an adjacent access isle at least 1.5 m wide by 6 m long
- (ii) Type B parking spaces shall:
 - a) Be at least 2.4 m wide
 - b) Be at least 6.0 m long
 - c) Have an adjacent access isle at least 1.5 m wide by 6m long
- (iii) Accessible parking spaces shall be provided as close as possible to principal building entrances.
- (iv) Accessible Parking Spaces shall be provided in accordance with the requirements specified hereunder;

Facility Type	Total Number of Spaces	Required Accessible Spaces		TOTAL ACCESSIBLE SPACES
		Type A	Type B	
Municipal Facility, School, university, college or public transportation organization	0-12	1	0	1
	13-100	2%	2%	4% (where an odd number of parking spaces is provided, the additional space shall be Type B)
	101-200			1+3% divided

SECTION 6 – GENERAL PROVISIONS
TOWN OF FORT ERIE COMPREHENSIVE ZONING BY-LAW 129-90
OFFICE CONSOLIDATION

Facility Type	Total Number	Required Accessible Spaces		TOTAL
				equally between Type A and Type B, except where an odd number of parking spaces is provided, the additional space shall be Type B
	201-1000			2+2% divided equally between Type A and Type B, except where an odd number of parking spaces is provided, the additional space shall be Type B
	1000+			11+1% divided equally between Type A and Type B, except where an odd number of parking spaces is provided, the additional space shall be Type B
Health Care Facility	5-10	1	0	1
	11-30	1	1	2
	31-50	2	1	3
	51-99	2	2	4

SECTION 6 – GENERAL PROVISIONS
TOWN OF FORT ERIE COMPREHENSIVE ZONING BY-LAW 129-90
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Facility Type	Total Number	Required Accessible Spaces		TOTAL
	100+	2 + 2% (capped at 12)	2% (capped at 10)	
Other Facilities	1-10	0	0	0
	11-30	1	0	1
	31-50	1	1	2
	51-99	2	1	3
	100+	2% (capped at 10)	1% (capped at 5)	

- (v) Accessible parking spaces shall have an accessible parking permit sign in accordance with Section 11 of Regulation 581 of the Revised Regulations of Ontario, 1990 (Accessible Parking for Persons with Disabilities as amended or replaced) made under the Highway Traffic Act.

6.21 LANDSCAPING AND PLANTING STRIPS

(a) REQUIREMENTS FOR USES ABUTTING RESIDENTIAL ZONES

Where a lot is used for a non-residential purpose or a residential development consisting of more than 3 dwelling units, and the interior side or rear lot line or portion thereof abuts a Residential zone, then a strip of land adjoining such abutting lot line, or portion thereof, shall be used for no other purpose than a planting strip in accordance with the provisions of this subsection.

(b) WIDTH

Where land is required to be used for no other purpose than a planting strip, it shall have a minimum width of 3.0 m measured perpendicular to the lot line it adjoins.

(c) DRIVEWAYS OR WALKS

In all cases where ingress and egress driveways or walks extend through a planting strip, it shall be permissible to interrupt the strip within 3.0 m of the edge of such driveway or within 1.5 m of the edge of such walk.

(d) LANDSCAPED OPEN SPACE

A planting strip referred to in this subsection may form part of any landscaped open space required by this By-law.

(e) PLANTING

Planting strips shall be planted with vegetation, the details of which being regulated through Site Plan Control.

(i) Where a fence, wall, row of trees or hedgerow is provided as part of a planting strip required by this By-law, such fence, wall, row of trees or hedgerow shall be designed to have an ultimate height of not less than 1.5 m above the elevation of the ground at the nearest lot line, except that within the sight triangle the maximum height of any such landscaping materials shall not be greater than 0.7 metres.

(ii) The owner of any lot whereupon a planting strip is required hereby shall be solely responsible for providing and maintaining such planting strip in accordance with the provisions hereof.

(f) PLANTING STRIPS REQUIRED ADJACENT TO QUEEN ELIZABETH WAY

Notwithstanding any other requirements of this by-law, a planting strip having a minimum width of 9.0m shall be provided adjacent to the Queen Elizabeth Way or any service road or other municipal road running parallel and adjacent to the Queen Elizabeth Way, and such planting strip shall be used for no other purposes than landscaped open space and/or a noise attenuation feature.

(g) MINIMUM LANDSCAPED OPEN SPACE AREA IN A RESIDENTIAL ZONE

i. The minimum required landscaped open space area in the front yard of any dwelling in any residential zone shall be 30%.

ii. The minimum required landscaped open space area in the rear yard of any dwelling in any residential zone shall be 40%.

iii. The overall minimum required landscaped open space area on a lot in a residential zone shall be 20%

6.22 PROHIBITED USES

(a) Except as otherwise specifically permitted in this By-law, the following uses are prohibited in any zone:

- (i) blood boiling
- (ii) bone boiling
- (iii) refining coal oil

- (iv) extracting oil from fish or animal matter
- (v) storing hides
- (vi) abattoir, commercial slaughterhouse, stockyard, or establishments for the sale or shipping of livestock
- (vii) a piggery wherein pigs are fed treated garbage or other treated refuse
- (viii) tallow melting
- (ix) soap boiling
- (x) tripe boiling
- (xi) tanning hides or skins
- (xii) manufacturing gas, acids or chemicals
- (xiii) manufacturing glue
- (xiv) commercial manufacturing of fertilizers from dead animals or from human or animal waste
- (xv) a track for the racing of motor vehicles or motorcycles or go-carts or motorized snow vehicles
- (xvi) DELETED
- (xvii) the use of any trailer for human habitation
- (xviii) keeping, storing, manufacturing, refining or transporting dangerous inflammable or explosive substances including, but not so as to limit the generality of the foregoing, dynamite, dualin or naphtha, but not including gasoline, diesel fuel, heating and lubricating oil, propane, acetylene, lime, fireworks or firearms.
- (xix) a junk yard, salvage yard, automobile wrecking yard, or the collection, storage, use or sale of junk, salvage, partially or completely dismantled motor vehicle or trailers or parts of motor vehicles or trailers, including used tires.
- (xx) locating or storing on any land for any purpose whatsoever any disused railroad car, streetcar body, vehicle body, shipping/cargo container or tractor or trailer body, not used for its intended purpose, whether or not the same is situated on a foundation, except as permitted in Section 6.36, 6.54 or 6.55.
- (xxi) keeping or raising of any bull, ox, cow, sheep, horse, goat, pig, llama, alpaca or other cattle, or any poultry, or any reptile or any wild animal including any tamed or domesticated wild animal, on any residential lot or in any building or structure on such lot, or on any lot or in any building or structure in a Residential zone.
- (xxii) Adult Entertainment establishments
- (xxiii) Toxic waste disposal and/or transfer sites
- (xxiv) Drop forge plants
- (xxv) The use of any vehicle or structure on a lot for the sale of food or merchandise, except as provided for in Subsection 6.36 (d).
- (xxvi) The use of any vehicle or vehicle body on a lot, for storage purposes, except as provided for in Subsection 6.36.
- (xxvii) Converted shipping/cargo containers or shipping/cargo containers in

- a Hazard (H) Zone, Environmental Protection (EP) Zone, Dune Protection (DP) Zone, Environmental Conservation (EC) Zone, or on any property designated under the Ontario Heritage Act.
- (b) In addition to the uses prohibited in Clause (a) of this subsection, any use which from its nature or the materials used therein or emissions issuing therefrom is declared under The Health Protection and Promotion Act, R.R.O. 1990, as amended from time to time, or any other regulations adopted thereunder to be a noxious trade, business or manufacture is prohibited.
- (c) In addition to the uses prohibited in clause (a) of this subsection, all uses of land and the erection or use of any building or structure for a purpose not permitted under the "Permitted Use" subsection of one or more zones established by this By-law are and shall be deemed to be prohibited in each such zone, except for those uses of land and the erection or use of any building or structure for a purpose expressly permitted under the applicable provisions of Section 6 hereof.

6.23 OBNOXIOUS USES

Notwithstanding anything contained herein, no land shall be used, and no building or structure shall be erected, altered or used for any purpose which is obnoxious, and without limiting the generality of this subsection for any purpose that creates or is likely to become a nuisance or offensive, or both:

- (a) by the creation of noise or vibration; or
- (b) by reason of the emission of gas, fumes, smoke, dust, or objectionable odour; or
- (c) by reason of the unsightly storage of goods, wares, merchandise, salvage, refuse matter, motor vehicles, trailers, or parts of vehicles or trailers, machinery or other such material; or
- (d) by any combination of these things described in clauses (a), (b) and (c) of this subsection.

6.24 PUBLIC SERVICES

This By-law shall not be deemed to:

- (a) Prevent the use of any land for the erection of buildings or structures, or the installation of any sewage and water works or other facilities essential to the operation of a Public Service, provided that any such use, building or structure shall be in substantial compliance with relevant provisions of this By-law and shall not adversely affect the character or amenity of the neighbourhood in which same is located; however, offices,

maintenance/repair yards and institutional uses for public agencies and public utilities are not permitted in any Agricultural or Rural zone.

- (b) Prevent the use of land for a street, a public railway or public park.
- (c) Prevent the erection of any properly authorized traffic sign or signal, or any sign or notice of any local or other government department or authority.

6.25 RAILWAY RIGHT-OF-WAY

Notwithstanding other provisions within this By-law to the contrary, no residential dwelling shall be constructed any closer than 30.0 m to any functioning railway right-of-way.

6.26 REDUCTION OF REQUIREMENTS

No person shall change the purpose for which any lot, building or structure is used or erect any new building or structure or addition to any existing building or structure or sever any lands from any existing lot if the effect of such action is to cause the original, adjoining, remaining or new building, structure or lot to be in contravention of this By-law, except:

- (a) in the cases of any addition to an existing building or structure, that is used in accordance with the provisions of this By-law, the front yard, interior side yard, exterior side yard and/or rear yard, as lawfully established prior to the date of passage of this By-law and which does not conform to the setback regulations of the particular zone in which the building or structure is located, shall be considered the required yard.

6.27 REMOVAL OF GRAVEL

Nothing in this By-law shall prevent an owner from removing gravel, sand or earth from his land for his own use on the property from which the material is removed.

6.28 REPLACEMENT OF BUILDINGS OTHER THAN RESIDENTIAL BUILDINGS

Any lawfully used building other than a building used exclusively for residential purposes may, in the case of its complete destruction, be replaced with a new building where the complete destruction is caused by fire, lightning, explosion, tempest, flood or Act of God, or where its demolition is by order of the Corporation, the Regional Niagara Health Services Department or any other authority, for safety, health or sanitation requirements, provided that:

- (a) such destroyed or demolished building was in conformance with this By-law at the date of its complete destruction or its demolition; or

- (b) for buildings not in conformance with this By-law, the ground floor area and gross floor area of such buildings as replaced does not exceed that existing at the date of its complete destruction or its demolition.
- (c) notwithstanding subsections (a) and (b) above, where the building is located in the Hazard Zone, the Niagara Peninsula Conservation Authority regulations shall apply.

6.29 REPLACEMENT OF RESIDENTIAL BUILDINGS

Any building used exclusively for residential purposes may, in the case of its complete destruction, be replaced with a new building or in the case of its partial destruction, be reconstructed where the complete or partial destruction, as the case may be, is caused by fire, lightning, explosion, tempest, flood or Act of God, or where its demolition is by order of the Corporation, the Regional Niagara Health Services Department or other authority, for safety, health or sanitation requirements, provided that:

- (a) such destroyed or demolished building was lawfully used at the date of its partial or complete destruction or its demolition;
- (b) such buildings as replaced or reconstructed shall not contain a greater number of dwelling units than could have lawfully existed in the destroyed or demolished building at the date of its partial or complete destruction or demolition;
- (c) where the ground floor area of the destroyed or demolished building was less than the minimum ground floor area permitted in the applicable zone under this By-law, such building, as replaced or reconstructed, shall not contain a lesser floor area than lawfully existed in the destroyed or demolished building at the date of its partial or complete destruction or demolition;
- (d) where any yard existing at the date of the partial or complete destruction or demolition of such building does not comply with the minimum yard required in the applicable zone under this By-law, then such yard shall not be less than the yard existing at the date of the partial or complete destruction or demolition of such building;
- (e) the height of such building, as replaced or reconstructed shall not exceed the maximum height permitted in the applicable zone under this By-law;
- (f) notwithstanding subsections (a), (b), (c), (d) and (e) above, where the building is located in the Hazard Zone, the Niagara Peninsula Conservation

Authority regulations shall apply.

6.30 RECONSTRUCTION OF AGRICULTURAL BUILDINGS AND STRUCTURES

Nothing in this By-law shall apply to prevent the reconstruction of any legal non-conforming or conforming agricultural building or structure situated in the Agricultural or Special Rural zones in the case of partial or complete destruction caused by fire, lightning, explosion, tempest, flood or Act of God, or demolition by the order of the Corporation, the Regional Niagara Health Services Department or other authority for safety, health or sanitation requirements, provided that:

- (a) such buildings or structures as replaced or reconstructed shall not have in total a greater livestock housing capacity than could have lawfully existed in the destroyed or demolished building or structure at the date of its partial or complete destruction or demolition; and
- (b) where any yard existing at the date of the partial or complete destruction or demolition of such building or structure does not comply with the minimum yard or minimum setback required in the Agricultural zone, such yard shall not be reduced in size by reason of such reconstruction of such building or structure; or
- (c) if such building or structure is to be replaced or reconstructed so that it provides a greater livestock housing capacity than lawfully existed in the destroyed or demolished building or structure at the date of its partial or complete destruction or demolition, such building or structure shall not be replaced or reconstructed except in accordance with the provisions of the Agricultural A and Rural RU zone.
- (d) for the purposes of this subsection, "livestock housing capacity" means the number of animal units per year in accordance with Schedule "C" hereof.
- (e) notwithstanding subsections (a), (b), (c), and (d) above, where the building is located in the Hazard Zone, the Niagara Peninsula Conservation Authority regulations shall apply.

6.30.1 Deleted by By-law 120-11

6.31 SIGHT TRIANGLES/DAYLIGHTING TRIANGLES

Daylighting requirements will be based on the functional road classification of intersecting roadways as follows:

Road Classification of Intersecting Streets	Minimum Daylighting Requirements
Local to Local	4.5 m Triangle or Radius
Collector to Local or Collector	7 m x 7 m Triangle
Arterial to Local, Collector to Arterial	12 m x 12 m Triangle

On a corner lot within the triangular space formed by the street lines and a line drawn from a point in one street line to a point in the other street line, each such point being measured along the street line from the point of intersection of the street lines, no sign, fence, landscaping, building or structure shall be greater than 0.7 m in height above the elevation of the ground at the street line regardless of whether or not any such landscaping materials form part of a required planting strip. Such triangular space may hereinafter be called a daylighting triangle.

Where the two street lines do not intersect at a point, the point of the intersection of the street lines shall be deemed to be the intersection of the projection of the street lines or the intersection of the tangents to the street lines.

Notwithstanding these requirements, the sight/daylighting triangle provisions of any legislation or regulation of the Region of Niagara, the Niagara Parks Commission and the Province of Ontario shall apply along all Regional Roads, Parks Commission Roads and Provincial Roads.

6.32 SIGNS

The provisions of this By-law shall not apply to prevent the erection, alteration or use of any sign provided such sign complies with the by-laws, regulations and legislation of the Province of Ontario, the Niagara Parks Commission, the Region of Niagara and the Town of Fort Erie regulating signs.

6.33 SPECIAL EXCEPTIONS

The special exceptions noted in each Zone Section shall have effect in respect of the subject use and the provisions of the respective zone shall be amended insofar as required to give effect to the special provisions. All other provisions of the respective zone shall apply, with the necessary changes being made to the subject use.

6.35 SWIMMING POOLS

(a) PRIVATE OPEN SWIMMING POOLS:

Notwithstanding any other provision of this By-law to the contrary, the

following provisions shall apply with respect to the erection or use of any private open swimming pool not enclosed or otherwise located within a building:

- (i) No private open swimming pools or related structures shall be permitted anywhere within the zoned area except:
- (ii) No interior wall surface of any open swimming pool, nor any related building or structure other than a fence, shall be located closer than 1m to any lot line or closer to any street than the setback required.
- (iii) No hard surface associated with a swimming pool shall be located closer than 0.5m to the side or rear lot line.
- (iv) No water circulating or treatment equipment, such as pumps or filters shall be located closer than 3m to any side lot line or 1m to any rear lot line when not enclosed within a structure. Water circulating or treatment equipment shall be setback a minimum of 1m from any lot line or the minimum setback to the required street line when enclosed within a structure.

(b) LOT COVERAGE EXEMPTION

Notwithstanding any other provision of this By-law to the contrary, no open swimming pools or any related structures shall be considered part of the lot coverage of a lot, but where a swimming pool is enclosed within a building or where a structure appurtenant to a swimming pool constitutes a building as defined herein, the building (but not the swimming pool) shall comply with any lot coverage requirements set out herein for the zone in which such building is located.

(c) INDOOR SWIMMING POOLS

Any swimming pool located within a building as defined herein shall comply with the provisions for accessory uses set out in Subsection 6.1 hereof, where such swimming pool is located within an accessory building, or with the zone requirements set out herein for the zone in which such swimming pool is located, where such swimming pool is located within a main building.

(d) PUBLIC SWIMMING POOLS

Any public swimming pool and any related buildings or structures shall comply with the zone requirements set out herein for the zone in which such swimming pool is located.

(e) **COMPLIANCE WITH SWIMMING POOL BY-LAWS**

All swimming pools shall comply with any by-laws of the Corporation regulating swimming pools.

6.36 TEMPORARY USES

TEMPORARY BUILDINGS DURING CONSTRUCTION

Nothing in this By-law shall prevent the use of any land, or the erection or use of any temporary building or structure for a construction camp, work camp, tool shed, scaffold or other temporary building or structure incidental to and necessary for construction work on the premises for which a building permit has been issued and not expired, but only for so long as such use, building or structure is necessary for such construction work which has not been finished or abandoned. The temporary building or structure shall be removed within six weeks of the work being completed or abandoned. Abandoned in this subsection shall mean failure to proceed expeditiously with the construction of the work.

DESTRUCTION OF DWELLING

Nothing shall prevent the use of a mobile home, motor home or tourist trailer for temporary habitation in the case of complete or partial destruction of a single detached dwelling, or where its demolition is ordered by the Corporation of the Town of Fort Erie, the Regional Niagara Health Services Department or other authority, for safety, health or sanitation requirements, for a period of time not to exceed 18 months.

TEMPORARY TRAILER FOR HABITATION

Nothing in this By-law shall prevent the use of a mobile home, motor home or tourist trailer for temporary habitation during the construction of a dwelling in the Agricultural (A) Zone, the Rural (RU) Zone or the Rural Residential (RR) Zone for a period of time not to exceed 12 months with the requirement that a valid building permit for the dwelling was issued by the Town of Fort Erie.

REAL ESTATE PAVILION

Nothing shall prevent the use of land, or the erection of a real estate sales pavilion or the placement of a mobile home to be used as a real estate sales pavilion on a temporary basis either located within or not more than 300 metres from a developing subdivision and which use shall be removed when all lots have been sold.

TEMPORARY SALE OF MERCHANDISE

Nothing shall prevent the use of any lands or the placement of any vehicle or structure within any zone excepting Residential Zones and Environmental Protection Zones as outlined in Section 3 of this By-law, or upon any municipal road

allowance as permitted by Town Council, for the temporary sale of food or merchandise by any person(s) for profit or gain as licensed and regulated by the Town.

CARNIVALS, FESTIVALS, FAIRS

Temporary events such as carnivals, festivals and fairs, including the ancillary sale of food and merchandise, shall be permitted in any zone excepting Residential Zones and Environmental Protection Zones as outlined in Section 3 of this by-law, subject to approval of the event by Town Council.

GARAGE SALES AND YARD SALES

Temporary events such as garage sales and yard sales shall be permitted on any property containing a residential use, subject to the following provisions:

- a) the event takes place only between the hours of 8:00 am and 6:00 pm
- b) no more than four (4) one-day events are permitted on a residential property in each calendar year.

SHIPPING/CARGO CONTAINERS

- a) Industrial Zones

Shall be permitted in any Industrial Zone provided shipping/cargo containers are:

- i) not stacked more than 3 high
- ii) are located behind the main building,
- iii) are screened from view from any street or road allowance,
- iv) are setback a minimum of 3 metres from all side and rear property lines,
- v) and are temporary meaning for a period of no longer than 18 months.

- b) Institutional Zones

A maximum of two shipping/cargo containers shall be permitted in the rear yard or interior side yard for the purposes of the temporary loading or unloading of items for charitable purposes in conjunction with a charitable institution or school provided shipping/cargo containers:

- i) are not stacked,
- ii) are located behind the main building,
- iii) are screened from view,
- iv) are setback a minimum of 3 meters from all sides and rear property lines; and
- v) are temporary meaning each container may only remain for a period not exceeding 18 months.

c) Residential Zones

- i) A maximum of one shipping/ cargo container is permitted in the driveway or in a side yard of a residential property for moving and minor renovations not requiring a building permit for a maximum of 60 days in any calendar year provided:
 - 1) it is setback 1 meter from all property lines;
 - 2) does not exceed a maximum height of 3.0 metres and a maximum length of 6.1 metres;
 - 3) is not located in any site triangle; and
 - 4) is not located in any required parking space

- ii) A maximum of one shipping/cargo container is permitted in the driveway or a side yard of a residential property for renovations requiring a building permit for a maximum of 180 days in any calendar year provided:
 - 1) it is setback 1.0 meter from all property lines;
 - 2) does not exceed a maximum height of 3.0 metres and a maximum length of 6.1 metres;
 - 3) is not located in any site triangle; and
 - 4) is not located in any required parking space

STORAGE OF PRODUCTS IN VEHICLES FOR SHIPPING

Temporary storage of products for shipping shall only be permitted in areas zoned Industrial (IN) Zone, Prestige Industrial (PI) Zone, and Dry Industrial (DI) Zone.

TEMPORARY SWIMMING POOLS

A temporary swimming pools shall be permitted in front yard where it is not physically possible to locate the temporary pool in the interior side yard, exterior side yard or rear yard. Temporary swimming pools shall be permitted in the interior side yard, exterior side yard and rear yard. For the purposes of this section, temporary shall mean not to remain between October 1st and April 30th.

TEMPORARY TENTS

A temporary tent shall be permitted on any property containing a residential use in the rear or exterior side yard, or in the front yard not closer than 15.0 m to the front lot line for a period of up to 96 hours. A temporary tent shall be permitted in any yard on a commercial property for a period of up to 96 hours provided it is not closer than 3.0 m to a front property line or to a residential zone. No more than two (2) 96hour events are permitted on any property in each calendar year.

6.37 THROUGH LOTS

Where a lot which is not a corner lot has frontage on more than one street, such lot shall have a front yard in accordance with Section 5.204 of this by-law.

6.38 TRAVEL TRAILERS, PICK UP CAMPERS, TENT TRAILERS, PERMANENTLY MOUNTED CAMPERS, MOTOR VEHICLES AND TENTS

(a) ALL ZONES

No person shall in any zone, locate or use any travel trailer, pick up camper, tent trailer, permanently mounted camper, motor vehicle or tent on any lot for living, sleeping or eating accommodation.

(b) EXCEPTIONS

i. Notwithstanding the provision of paragraph (a) hereof, a lot may be used for a travel trailer for living, sleeping or eating accommodation:

(i) where the lot is used as a camping area in a public park, but which tourist trailer or motor home shall not be occupied for any period of time beyond 8 months.

(ii) where the lot is in an Industrial zone and the travel trailer or motor home is used by a caretaker or watchman employed on the lot and provided not more than one such travel trailer is located on a lot; or

(iii) where such use is specifically permitted elsewhere in this By-law.

ii. Notwithstanding the provision of paragraph (a) hereof, a tent may be used on a lot in accordance with the Temporary Tent provisions under Subsection 6.36 Temporary Uses.”

6.39 STORAGE OF RECREATIONAL VEHICLES

On a lot containing a residential dwelling, no person shall store a recreational vehicle except in accordance with the following provisions:

(a) where the lot is used for an apartment dwelling or boarding house, the storage of such vehicles shall be enclosed and shall only be permitted in spaces or areas that are in addition to the number of parking spaces required by Section 6.20.

(b) where the lot is used for any other residential use, the storage of such vehicles shall be permitted in any yard provided that they are a minimum of 1.0 m from any side or rear lot line and where storage occurs in a front yard or exterior side yard, a minimum setback of 4.5 m from the front lot line and in the case of a corner lot a daylighting triangle in accordance with Section 6.31 of the Comprehensive Zoning By-law 129-90 shall be required in addition to the front yard setback for sight clearance purposes.

- (c) notwithstanding the requirements of (b) above, a Recreational Vehicle shall not be located in the front yard between the main dwelling and the front lot line in such a manner that the front face of the dwelling is blocked or obscured in an unsightly manner.
- (d) notwithstanding the requirements of (b) and (c) above, the temporary storage of recreational vehicles for a period of up to 72 hours, between May 1st and October 31st, shall be permitted in the front yard. However, temporary storage of recreational vehicles shall not be permitted within the required daylighting triangle in accordance with Section 6.31 on any corner lot.
- (e) Recreational vehicles may be stored in accordance with (d) above, a maximum of 6 times in a calendar year

6.40 COVERED OR UNCOVERED PORCHES, BALCONIES, DECKS AND PATIOS

(a) Residential Zones

Notwithstanding the yard provisions of this By-law to the contrary, porches, balconies, decks and patios may project into required yards in residential zones as follows:

Height of Platform			
	0 m to 0.5 m Above grade (uncovered)	Between 0.5 m and 1.5 m (uncovered) or 0 m to 1.5 m above grade (covered)	Above 1.5 m above grade (covered or uncovered)
Minimum setback to exterior side lot line	0.25 m, if permeable and drainage is not adversely impacted; 1.50 m if non-permeable	1.5 m	Required building setback

	Minimum setback to exterior side lot line	Minimum setback to exterior side lot line	Minimum setback to exterior side lot line
Minimum setback to interior side lot line	0.25 m, if permeable and drainage is not adversely impacted; Required building setback if non-permeable	Required building setback	Required building setback
Minimum setback to rear lot line	0.25 m, if permeable and drainage is not adversely impacted; 3 m if non-permeable	3 m	Required building setback
Minimum setback to front lot line	3 m	3 m	Required building setback

(b) Notwithstanding part (a) above, porches, balconies, decks and patios are not permitted to encroach into required swales.

(c) Agricultural and Rural Zones

Notwithstanding the yard provisions of this By-law to the contrary, covered or uncovered porches, balconies, decks and patios which have platform heights of less than 1.5 m above grade may project a maximum of 3.0 m into required yards in Rural and Agricultural zones. Covered or uncovered porches, balconies, decks and patios which have platform heights greater than 1.5 m above grade must be setback the required building setback.

6.41 YARD ENCROACHMENTS PERMITTED

(a) ORNAMENTAL STRUCTURES

Notwithstanding the yard provisions of this By-law to the contrary, sills, belt courses, chimneys, cornices, eaves, gutters, parapets, pilasters, bay windows, bow windows, window wells or other ornamental structures may project into any required yard a maximum distance of 0.5m but shall not be closer than 0.5m to any lot line.

(b) ACCESSORY STRUCTURES

Notwithstanding the yard provisions of this By-law to the contrary, drop awnings, clothes poles, flag poles, garden trellises, fences, retaining walls, signs, or similar accessory uses shall be permitted in any required yard.

(c) Enclosed Structures

Any enclosed porch, balcony, step, patio or barrier-free ramp structure is deemed to be part of the building to which it is attached and shall meet all required yard setbacks thereof. For the purposes of this section, “enclosed” means having vertical planes which are more than 50% covered with walls including windows but not including removable screens.

(d) STEPS AND BARRIER FREE RAMP STRUCTURES

Notwithstanding the yard provisions in this by-law to the contrary, steps and barrier free ramp structures may project into the front, rear and interior side lot lines and shall be setback a minimum of 1 m from exterior side lot lines.

(e) Landings

For the purpose of this provision a landing is considered to be part of steps or barrier free ramp structures.

(f) Steps/Barrier Free Ramp Structures with Foundations

Notwithstanding the yard provisions in this by-law to the contrary, steps and barrier free ramp structures with foundations may project into the front, rear and interior side lot lines and shall be setback a minimum of 1 m from exterior side lot lines provided it is demonstrated that drainage is not adversely impacted.

(g) FIRE ESCAPES

Notwithstanding the yard provisions of this By-law to the contrary, unenclosed fire escapes, in which the stairs, steps and floors are latticed in such a manner that the proportions of voids to solids is not less than 2 to 1 and in which guards consist only of hand rails and the structural members necessary to their support, may project into any required yard a maximum distance of 1.5m.

(h) RAILWAY SPUR

Notwithstanding the yard provisions of this By-law to the contrary, a railway spur shall be permitted within any required yard.

(i) GATE HOUSE

Notwithstanding the yard provisions of this By-law to the contrary, in a Commercial or Industrial zone, a gate house shall be permitted in any yard.

(j) CANOPIES OVER ENTRANCES

Notwithstanding the yard provisions of this By-law to the contrary, canopies over front and rear entrances may project into a required front yard or required rear yard a maximum distance of 3.0 m.

(k) OPERATING MACHINERY

Notwithstanding the yard provisions of this By-law to the contrary, operating machinery shall:

- (i) in any lot used for residential purposes, be permitted to encroach into any side yard adjacent to a street or into any rear yard of any such lot.
- (ii) not be permitted in a front yard of a lot used for residential purposes except that an air conditioning unit or an automatic standby generator may encroach into a front yard to the maximum permitted distance of 2.0 m from the main wall of the main building.
- (iii) where permitted on any residential lot under (i) or (ii) above, the exhaust or intake shall not be directed towards any side yard if such side yard abuts another parcel of land used for residential purposes.
- (iv) where permitted on any residential lot under (i) or (ii) above, shall not be located less than 5.0 m from an existing residential use under separate ownership, except that an air conditioning unit or an automatic standby generator shall not be located less than 2.0 m from an existing residential use under separate ownership.
- (v) be permitted to encroach into any interior side yard, provided that the said operating equipment shall not be located less than 5.0 m from any lot line, except that an air conditioning unit or automatic standby generator shall not be located less than 0.5 m from any lot line.

6.42 WAYSIDE PITS AND QUARRIES

Wayside pits and quarries shall be permitted only in the Agricultural (A) Zone and the Extractive Industrial (EI) Zone.

6.43 ACCESSORY DWELLING UNITS

- (a) In a Residential Zone in the Urban Boundary that has access to full municipal water and sanitary sewer service, up to two (2) Accessory Dwelling Units shall be permitted in any single detached, semi-detached or rowhouse/townhouse dwelling in addition to the main dwelling unit.
- (b) In a Residential Zone in the Urban Boundary that has access to full municipal water and sanitary sewer service, one (1) Detached Accessory Dwelling Unit shall be permitted on the same lot. Notwithstanding Subsection 6.43 (a), where a lot contains a permitted Detached Accessory Dwelling Unit, only one (1) Accessory Dwelling Unit shall be permitted in any single detached, semi-detached or rowhouse/townhouse dwelling in addition to the main dwelling unit.
- (c) In a Neighbourhood Development (ND) Zone in the Urban Boundary that has access to full municipal water and sanitary sewer service, up to two (2) Accessory Dwelling Units shall be permitted in an existing single detached, semi-detached or rowhouse/townhouse dwelling.
- (d) In a Neighbourhood Development (ND) Zone in the Urban Boundary that has access to full municipal water and sanitary sewer service, one (1) Detached Accessory Dwelling Unit shall be permitted on the same lot. Notwithstanding Subsection 6.43 (c), where a lot contains a permitted Detached Accessory Dwelling Unit, only one (1) Accessory Dwelling Unit shall be permitted in any single detached, semi-detached or rowhouse/townhouse dwelling in addition to the main dwelling unit.
- (e) A Detached Accessory Dwelling Unit that is contained within or added onto an Accessory Building that existed prior to By-law 12-2024 being approved on January 29, 2024 shall be subject to the regulations of Subsection 6.1 (b), (d) and (e).
- (f) A Detached Accessory Dwelling Unit that is contained within a new Accessory Building shall be subject to the following regulations:
 - a. Maximum Lot Coverage – 15%
 - b. Location on Parcel – Shall be located in an interior side yard or the rear yard only
 - c. Minimum Interior Side Yard:
 - i. 1 storey – 1.00 m
 - ii. 1.5 storey – 1.50 m
 - iii. 2 storey – 2.00 m
 - d. Minimum Exterior Side Yard – 3.00 m, except that an attached garage or carport which faces the exterior side lot line shall be located no closer than

- 6.00 m to the exterior side lot line.
- e. Maximum Building Height
- i. 2 storeys or the same number of storeys as the main dwelling, whichever is less.
 - ii. The maximum height shall be the same as the main dwelling or 8.00 m, whichever is less.
- (g) The maximum floor area for each Accessory Dwelling Unit shall not exceed 40% of the total floor area of the main dwelling or 100 sq m, whichever is lesser. Where a portion of the basement of the dwelling is occupied by an Accessory Dwelling Unit, the occupied floor area of the basement shall be included in the calculation of the total floor area. If located in the basement of the main dwelling the Accessory Dwelling Unit may occupy the entire basement area.
- (h) One parking space must be provided on site for each Accessory Dwelling Unit and Detached Accessory Dwelling Unit. Tandem parking is permitted for Accessory Dwelling Units and Detached Accessory Dwelling Units to the maximum depth of two parking spaces.
- (i) If a single detached dwelling, semi-detached dwelling or townhouse dwelling is permitted in a non-Residential Zone by way of site-specific Zoning Exception, Accessory Dwelling Units / a Detached Accessory Dwelling Unit are permitted as per part (a) through (h) above.

6.44 MINOR YARD VIOLATIONS AFTER 10 YEARS (deleted by By-law 128-2018)

6.45 LOTS COMPOSED OF TWO OR MORE LOTS (By-law 3-2002)

Nothing in this by-law shall prevent the erection, alteration, extension or enlargement of a building or structure on lands composed of two or more contiguous lots, and such lots may be treated as one lot when calculating lot coverage and yard setback requirements, provided all of the requirements of the appropriate zone are complied with, and the owner of the lands has entered into a site plan agreement with the Town of Fort Erie in accordance with Section 41 of the *Planning Act R.S.O. 1990 c. P. 13* as amended from time to time or any successor thereto together with any regulations made thereunder.

6.46 REFUSE COLLECTION AREAS

Any refuse collection area except for deep collection units shall be enclosed within a covered building, or screened from view through the use of solid materials such as board-on-board fencing and/or decorative brick or block, and;

Such refuse collection areas except for deep collection units may not be located in any front yard or any other yard abutting a street.

6.47 AVERAGE SETBACKS

- a) Notwithstanding any other front yard requirements of this by-law, a dwelling or dwelling addition to be erected in an R1, R2, R2A, R3, RM1, WRR or RR Zone, on a lot where abutting lots on both sides fronting on the same street are occupied by dwellings, may have a minimum front yard depth equal to or greater than the average front yard depth of the dwellings on the two abutting lots.
- b) Notwithstanding any other front yard requirements of this by-law, a dwelling or dwelling addition to be erected in an R1, R2, R2A, R3, RM1, WRR or RR Zone on a corner lot where the abutting lot fronting on the same street is occupied by a dwelling, may have a minimum front yard depth equal to or greater than the front yard depth of the dwelling on the abutting lot but shall not be less than 1 m except that the dwelling must comply with the requirements for daylighting triangles in Section 6.31.

6.48 YARD SETBACKS FOR LOTS ABUTTING LAKE ERIE (By-law 100-05)

Notwithstanding any other yard requirements of this by-law, any building or any addition thereto in the vicinity of Lake Erie shall be set back a minimum of 30.0 m from the 1-in-100-year flood elevation as determined by the Niagara Peninsula Conservation Authority.

6.49 FLOODPROOFING AREAS

New buildings and structures shall only be erected in areas delineated as Floodproofing Areas on Schedule “A” in accordance with the following minimum building opening elevations prescribed in this subsection.

FLOODPROOFING AREA NO. 1

New permitted buildings and structures shall be floodproofed with no openings below 176.5 m elevation.

FLOODPROOFING AREA NO. 2

New permitted buildings and structures shall be floodproofed with no openings below 177.5 m elevation.

6.50 OUTDOOR PATIOS ASSOCIATED WITH EATING ESTABLISHMENTS AND/OR TAVERNS (By-law 90-04)

For any outdoor patio associated with any eating establishment and/or tavern in any zone where such use is permitted, the following provisions shall apply:

- (a) No part of any outdoor patio shall be used as a place of entertainment for

the purpose of providing entertainment or amusement of any kind and without restricting the generality of the foregoing, entertainment or amusement includes live or recorded music, dance facilities, theatrical performances, video games, film presentations, video screens or televisions between the hours of 11:00 P.M. and 11:00 A.M. if any part of such patio is located within 60.0 metres of a Residential Zone.

- (b) No part of any outdoor patio shall be located within 20.0 metres of a residential zone.
- (c) The seating capacity of the outdoor patio shall not exceed 50 percent of the seating capacity of the eating establishment and/or tavern with which the patio is associated.
- (d) No outdoor patio shall be constructed in a way that would remove on-site parking spaces required by this Zoning By-law.
- (e) No outdoor patio shall be located on any municipal road allowance or any other property owned by the Town unless a valid permit therefore has been issued by the Town.
- (f) The outdoor patio must be able to provide easy access to the municipal lot servicing laterals.

6.51 MODEL HOMES IN DRAFT APPROVED PLANS OF SUBDIVISION

Notwithstanding any other provision of this By-law, where a model home agreement has been executed (signed) by the owner, more than one 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 located;
- (b) The 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;
- (c) The maximum number of model homes shall not exceed five (5) dwelling units or a maximum of 10% of the total number of lots within the plan of subdivision proposed for registration, whichever is less;
- (d) 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 registered plan of subdivision; and

- (e) The model home shall comply with all applicable terms and conditions of the said subdivision agreement.

6.52 PET DAY CARE ESTABLISHMENTS

In addition to the regulations governing the zone in which it is proposed to be located, the following additional provisions shall apply to “Pet Day Care Establishments”:

- a) The establishment shall operate only between the hours of 7:00 am and 8:00 pm
- b) An establishment wholly enclosed within a building shall not be located closer than 150.0 m to any Residential Zone
- c) In the case of an establishment which also includes an outdoor run, the outdoor run area shall not be located closer than 150.0 m to any Residential Zone nor any closer than 150.0 m to any residential dwelling unit, exclusive of the Pet Day Care Establishment operator’s dwelling unit
- d) Any outdoor run associated with a Pet Day Care Establishment shall be enclosed with solidly constructed fencing so as to fully obstruct the visibility of the neighbouring properties from the pets and being capable of preventing the escape of pets.
- e) In the Agricultural (A) and Rural (RU) Zones, Pet Day Care Establishments, regardless of whether or not they are located in the same building as a dwelling, shall be considered to be agricultural buildings for the purposes of Section 7.4 and 8.3 of Zoning By-law 129-90.

6.53 EXISTING LOTS OF RECORD

Vacant undersized lots of record outside the urban area boundary will require septic system approval from the Regional Municipality of Niagara.

6.54 CONVERTED SHIPPING/CARGO CONTAINERS AS ACCESSORY USES

All converted shipping/cargo containers shall be a maximum width of 2.5 metres and a maximum length of 6.1 metres

- a) Agricultural, Rural Zones
 - i) A maximum of one converted shipping/cargo container will be permitted as an accessory to a residential use subject to the accessory use provisions in each zone.

- ii) Stacking shall not be permitted
- b) Residential Zones
 - i) A maximum of one converted shipping/cargo container will be permitted as an accessory to a residential use subject to the accessory use provisions in each zone.
 - ii) Stacking shall not be permitted.
- c) Institutional, and Public Zones
 - i) A maximum of one converted shipping/cargo container will be permitted as an accessory use subject to the accessory use provisions in each zone.
 - ii) Stacking shall not be permitted.
- d) Commercial Zones

A converted shipping/cargo container will be permitted as accessory to a commercial use subject to the following special provisions:

 - i) Two (2) converted shipping/cargo containers shall be permitted on all commercially zoned properties within the Town.
 - ii) A shipping/cargo container shall be located in the rear yard only.
 - iii) A shipping/cargo container shall have a minimum rear yard setback of 3 metres if the shipping/cargo container is 4.5 metres high or less.
 - iv) A shipping/cargo container shall have a minimum rear yard setback of 4.5 metres if the shipping/cargo container exceeds 4.5metres in height.
 - v) A maximum of one converted shipping/cargo container will be permitted as an accessory use in conjunction with a residential use in all commercial zones.
 - vi) Stacking shall not be permitted.
- e) Open Space Zones
 - i) A maximum of two converted shipping/cargo containers will be permitted as an accessory use subject to the accessory use

provisions in the open space zones.

6.55 SHIPPING/CARGO CONTAINERS IN AGRICULTURAL, RURAL AND INDUSTRIAL ZONES

- a) Agricultural Zones
 - i) A maximum of one shipping/cargo container per 4 ha of lot area not exceeding a total of 4 shipping/cargo containers on an agricultural lot.
 - ii) Container must be screened from view.
 - iii) Located behind existing buildings or structures.
 - iv) Stacking shall not be permitted.
- b) Rural Zones
 - i) A maximum of one shipping/cargo container per 2.5 ha of lot area not exceeding a total of 2 shipping containers on a rural lot.
 - ii) Container must be screened from view.
 - iii) Located behind existing buildings or structures.
 - iv) Stacking shall not be permitted.
- c) Industrial Zones
 - i) Shipping/Cargo containers are permitted as an accessory use provided they are located in an interior side yard or rear yard only and screen from view from any street or road allowance.
 - ii) Stacking shall not be permitted.

6.56 COMMUNITY GARDENS

- (a) Notwithstanding any other provision of this By-law, a Community Garden shall be permitted in all zones except:
 - (i) Industrial (IN) Zone
 - (ii) Prestige Industrial (PI) Zone
 - (iii) Dry Industrial (DI) Zone
 - (iv) Extractive Industrial (EI) Zone

- (v) Environmental Protection (EP) Zone
- (vi) Dune Protection (DP) Zone

- (b) Notwithstanding anything to the contrary, a Community Garden is prohibited within a Daylighting Triangle or on any Town, Regional or Provincial land without written permission from the relevant authority.

- (c) Cannabis/marihuana plants in a Community Garden are prohibited.

- (d) The maximum area permitted on a lot for a Community Garden is 93.00 sq. m.

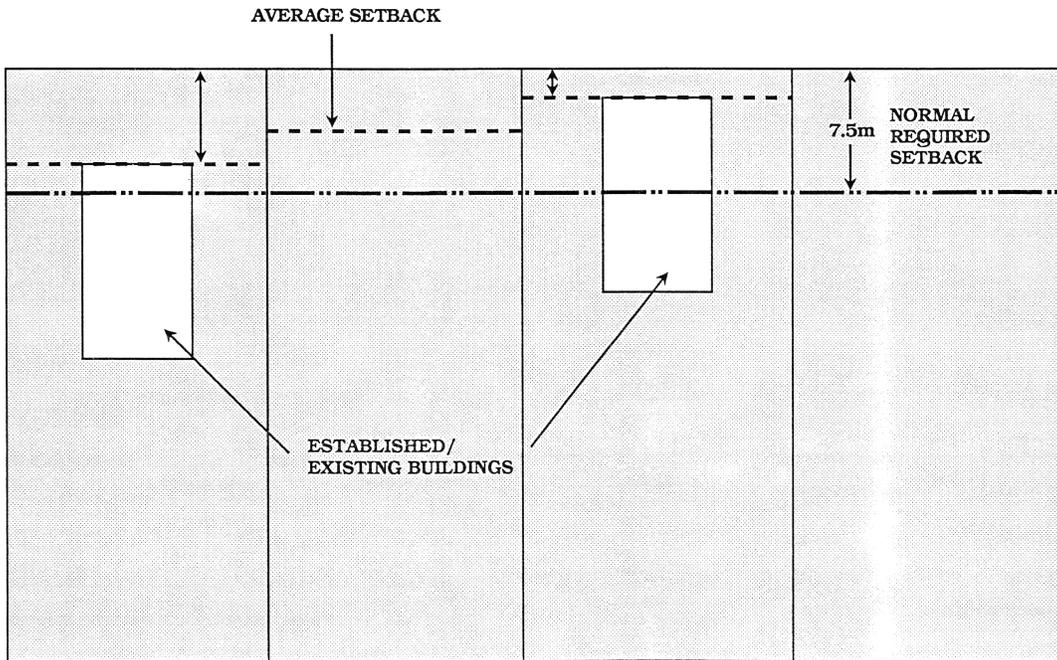
- (e) All parking associated with a Community Garden must be accommodated on site.

- (f) Use of a Community Garden for commercial purposes is not permitted.

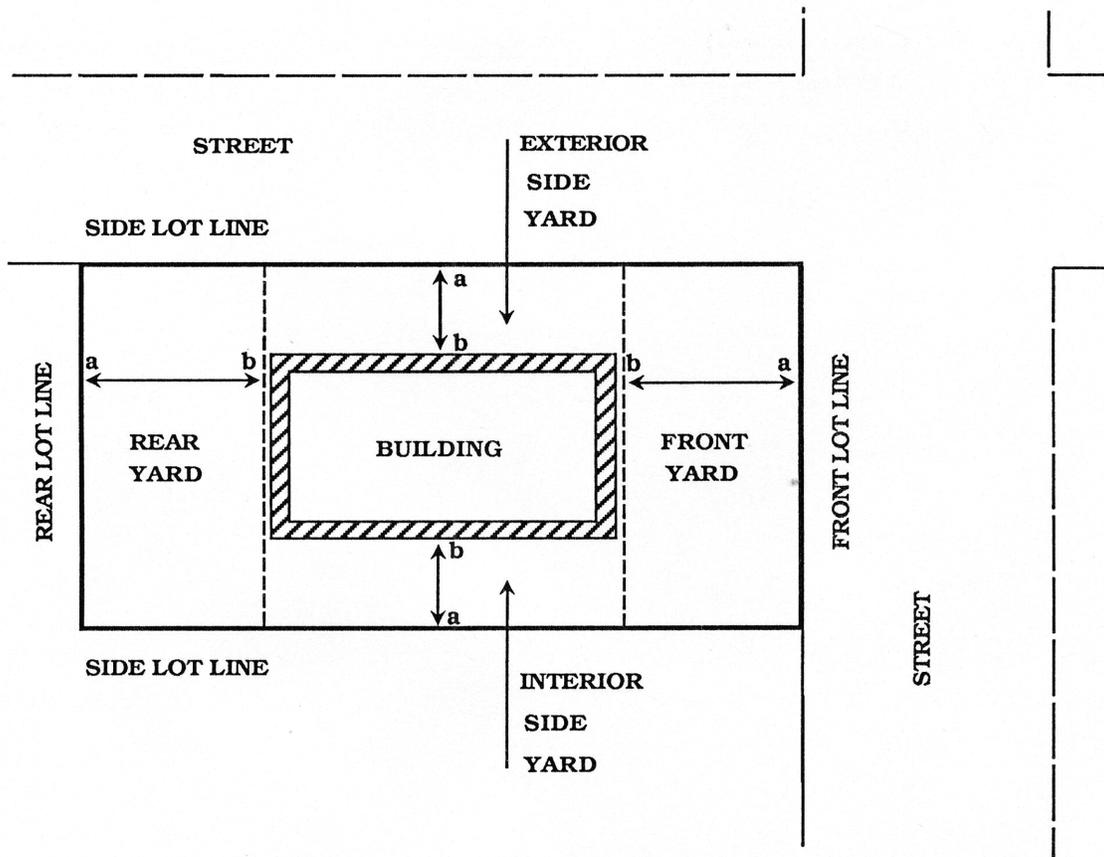
ILLUSTRATIONS

The following illustrations are for clarification and convenience and do not form part of this by-law.

**ESTABLISHED BUILDING LINES /
FRONT YARD REDUCTION**

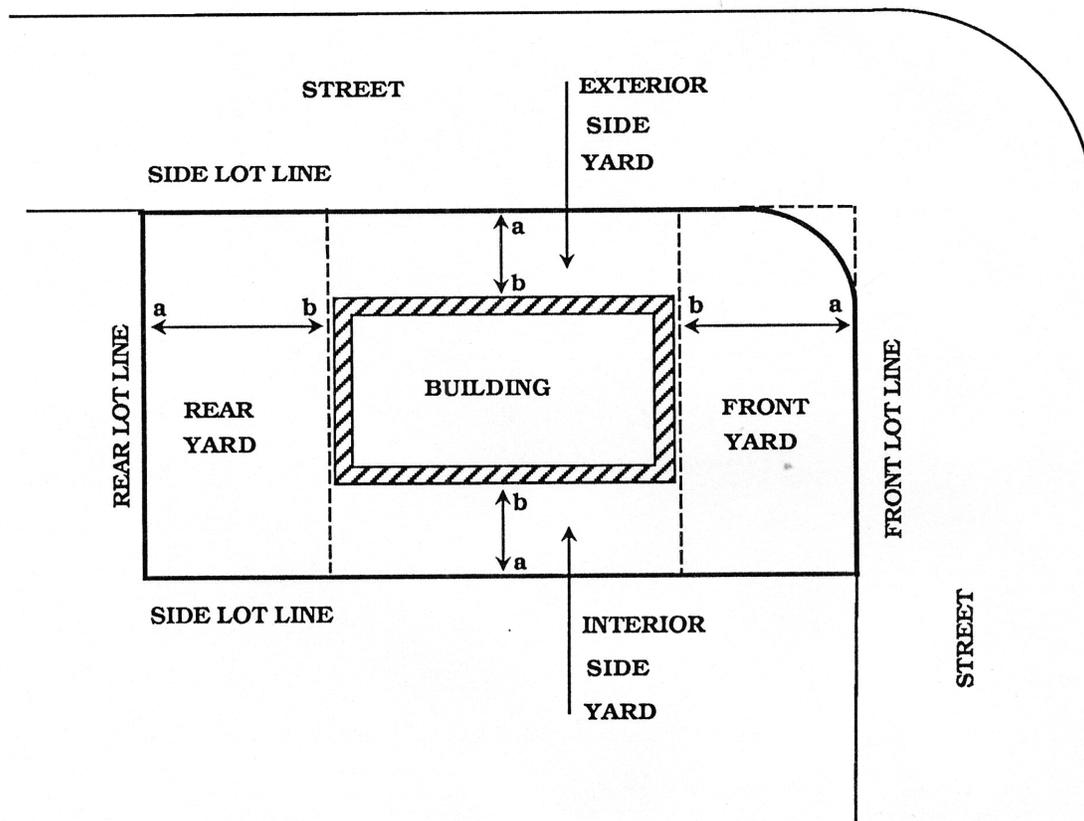


PARALLEL LOT LINES
YARD DEFINITIONS



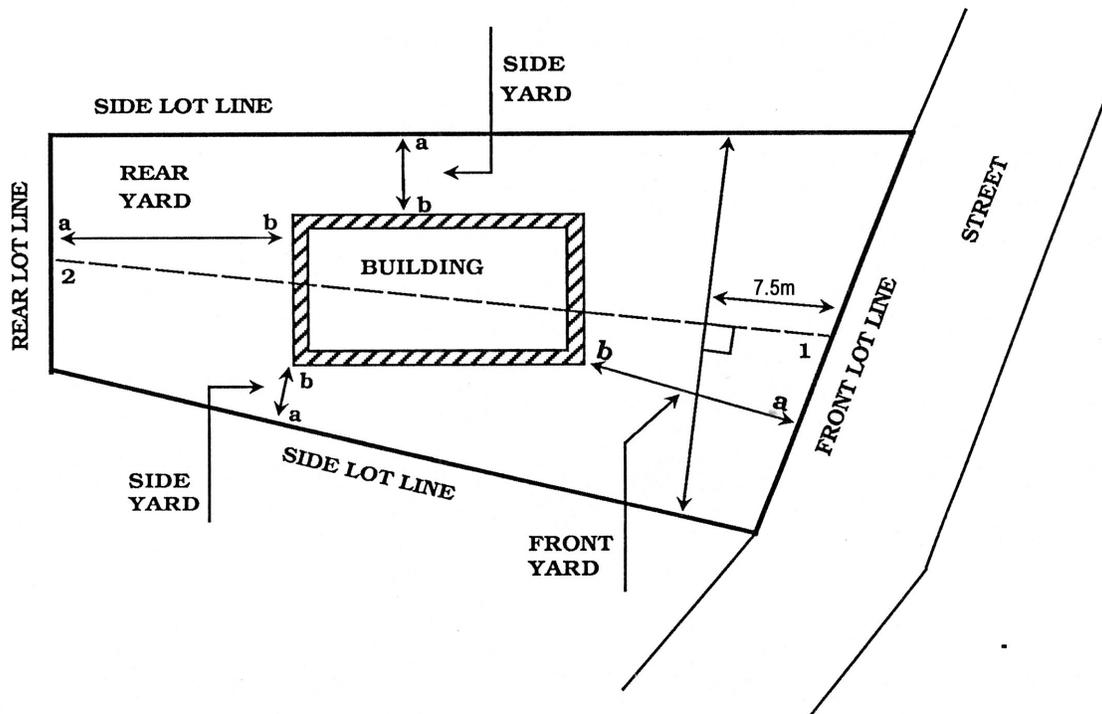
DISTANCE ab REPRESENTS THE DEPTH OF THE REQUIRED YARD MEASURED AS LEAST HORIZONTAL DIMENSION BETWEEN LOT LINE AND NEAREST PART OF MAIN BUILDING. DISTANCE ab MUST BE THE MINIMUM DISTANCE SPECIFIED IN BY-LAW.

**CORNER LOT
CURVED LOT LINE
YARD DEFINITIONS**



DISTANCE ab REPRESENTS THE DEPTH OF THE REQUIRED YARD MEASURED AS LEAST HORIZONTAL DIMENSION BETWEEN LOT LINE AND NEAREST PART OF MAIN BUILDING. DISTANCE ab MUST BE THE MINIMUM DISTANCE SPECIFIED IN BY-LAW.

IRREGULAR LOT
NO PARALLEL LOT LINES
YARD DEFINITIONS



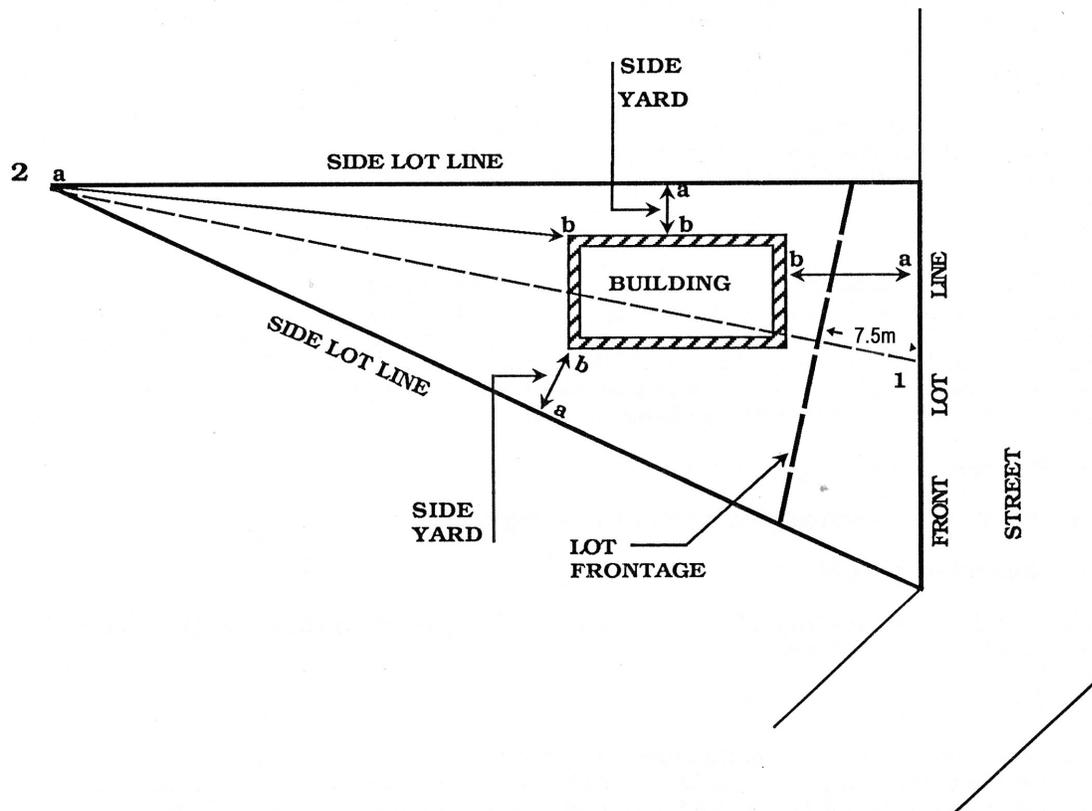
LOT FRONTAGE

1. MID POINT OF FRONT LOT LINE.
2. MID POINT OF REAR LOT LINE.

LOT FRONTAGE MEASURED AT RIGHT ANGLES TO THE LINE JOINING POINTS 1 AND 2 AT A DISTANCE OF 7.5m FROM THE FRONT LOT LINE.

DISTANCE *ab* REPRESENTS THE SHORTEST DISTANCE MEASURED BETWEEN THE LOT LINE AND NEAREST PART OF THE MAIN BUILDING. DISTANCE *ab* MUST BE A MINIMUM DISTANCE SPECIFIED IN BY-LAW.

IRREGULAR LOT
NO REAR LOT LINE
YARD DEFINITIONS



LOT FRONTAGE

1. MID POINT OF FRONT LOT LINE.
2. MID POINT OF REAR LOT LINE.

LOT FRONTAGE MEASURED AT RIGHT ANGLES TO THE LINE JOINING POINTS 1 AND 2 AT A DISTANCE OF 7.5m FROM THE FRONT LOT LINE.

DISTANCE *ab* REPRESENTS THE SHORTEST DISTANCE MEASURED BETWEEN THE LOT LINE AND NEAREST PART OF THE MAIN BUILDING. DISTANCE *ab* MUST BE THE MINIMUM DISTANCE SPECIFIED IN THE BY-LAW.

6.58 SHORT TERM RENTALS

a) General Regulations for Short Term Rentals

- (i) A Short-Term Rental shall meet the requirements of the Town's Business Licensing By-law, as amended from time to time.
- (ii) A Short-Term Rental shall be operated within a permitted dwelling unit.
- (iii) All dwelling units on the property, including units containing Short-Term Rentals, must comply with applicable zoning and building standards for dwelling units.
- (iv) Short-Term Rentals shall meet the parking requirements of Section 6.20.

b) Owner Occupied Short-Term Rentals

An Owner-Occupied Short-Term Rental is permitted as a secondary use subject to the following additional requirements:

- (i) A maximum of one (1) Owner-Occupied Short-Term Rental may be operated on a property so long as the owner is a full-time resident within a separate dwelling unit on the property and present at the time of rental.
- (ii) Owner-Occupied Short-Term Rentals shall only be permitted as a secondary use within, or accessory to, a permitted single detached dwelling, semi-detached dwelling, Duplex, Triplex.

c) Dedicated Short-Term Rentals

- (i) Within permitted residential zones, a maximum of one dwelling unit shall be permitted to be used as a Dedicated Short-Term Rental on a property.
- (ii) Within permitted residential zones, a Dedicated Short-Term Rental shall only be permitted within a single detached dwelling or within a detached accessory dwelling unit.
- (iii) Notwithstanding the general provisions for Short-Term Rentals, Short-Term Rentals may be located in any dwelling unit in a commercial zone, subject to provisions 18.2 and 18.3."