

SECTION 4 – GENERAL PROVISIONS

4.1 Non-Conforming Uses, Buildings, Structures and Lots

Nothing in this By-law shall apply to prevent the *use* of any land, *building* or *structure* for any purpose prohibited by this By-law if such land, *building* or *structure* was lawfully *used* for such purpose as of August 8, 2016, so long as it continues to be *used* for that purpose.

4.1.1 Strengthening of Non-Conforming Buildings

Nothing in this By-law shall prevent the strengthening or restoration to a safe condition of a *building* or *structure* which is *used* for a *use* not conforming with this By-law, so long as the strengthening or restoration does not increase or expand the *height*, size, shape or volume of the *building* or *structure* or change its *use* to other than a conforming one.

Where for any reason, a *non-conforming use* has ceased, such *non-conforming use* shall not be permitted to resume and any future *use* of land, *building* or *structure* shall thereafter conform to the permitted *uses* of the Zones relating to the subject land.

4.1.2 Replacement of Non-Conforming Buildings or Structures

Nothing in this By-law shall prevent the replacement of *non-conforming building* or *structure* where such *building* or *structure* is partially or totally destroyed by fire, explosion, collapse, or other accidental cause provided that:

1. the *building* or *structure* is occupied by the same *use* or a permitted *use*;
2. such replacement is located on or within the limits of the foundation walls of the *building* as they existed prior to such destruction;
3. such replacement occurs within a reasonable amount of time; and
4. the *height* and *gross floor area* of such replacement does not exceed the *height* and *gross floor area* of the *building* as it existed prior to such destruction.

4.1.3 Enlargement and/or Extension of Non-Conforming Buildings or Structures

Nothing in this By-law shall prevent a *non-conforming building* or *structure* from being enlarged or extended provided that the enlargement, or extension

does not further reduce or create additional **non-compliance** of the **building** or **structure** with this By-law.

[Amended by By-law 7-2022]

4.1.4 Lots Having Less Lot Area and/or Lot Frontage

Where a **lot** having a **lot area** and/or **lot frontage** less than the minimum required herein, and is held under distinct and separate ownership from abutting **lots** as shown by a registered conveyance in the records of the Registry or Land Titles Office as of October 19, 1999, or where such a **lot** is created as a result of an expropriation, such smaller **lot** may be **used** and a **building** or **structure** may be **erected, altered** or **used** on such smaller **lot**, provided that servicing can be accommodated to the satisfaction of the Township and all other requirements of this By-law are complied with.

Notwithstanding the above, **lots** in the Village Commercial Zone which existed as of October 19, 1999 and which have a **lot frontage** less than required and/or have a **lot area** less than required, shall have a minimum **lot frontage** equivalent to their **lot frontage** and/or shall have a minimum **lot area** equivalent to their **lot area**.

Notwithstanding the above, **lots** in the Agricultural Zone which existed as of October 19, 1999 and which have a **lot frontage** less than 120 m and/or have an area less than 35 ha, shall have a minimum **lot frontage** equivalent to their **lot frontage** and/or shall have a minimum **lot area** equivalent to their **lot area**.

[Amended by By-law 7-2022]

4.1.5 Deemed to Comply: Non-Conforming Setbacks

Where a **building** was legally constructed and does not comply with the current regulations of its Zone, the **building** shall have a minimum **front yard setback** equivalent to its **front yard setback**, a minimum **rear yard setback** equivalent to its **rear yard setback**, and/or shall have a minimum **interior** or **exterior side yard setback** equivalent to its **interior** or **exterior side yard setback**.

4.1.6 Deemed to Comply: Site Plan or Development Agreement Approvals

Where a Site Plan or Development Agreement has been entered into, signed by Owner and the Township and registered on title between January 1, 2010 and August 8, 2016, but all building permits for the applicable project have not been issued, the provisions in this By-law shall be deemed to be modified to the extent necessary to give effect to the Site Plan or Development Agreement, provided that all building permits are issued prior to December 31, 2021.

4.2 Accessory Uses

4.2.1 Use of Accessory Buildings

Where this By-law provides that a **building** or **structure** may be **constructed**, **altered** or **used** for a purpose, that purpose may also include any **accessory use**, **building** or **structure**, but shall not include:

1. Any occupation for gain or profit conducted within a Residential Zone, except as may be permitted by this By-law.
2. Any **building used** for human habitation except as permitted in this By-law.

4.2.2 Establishment of an Accessory Building or Use

No **accessory building** or **accessory use** shall be **constructed** or established on any **lot** or site until the **main building** has commenced construction, except for "Temporary Use" purposes as may be permitted elsewhere in this By-law. In no case shall portables, storage/**shipping containers**, freight cars or steel containers be **constructed** or established as an **accessory building** on any **lot** within a Residential Zone.

4.2.3 Location of Accessory Buildings

An **accessory building** or **structure** shall be erected to the rear of the required front yard and shall comply with the yard and setback requirements of the zone in which such **buildings** or **structure** is situated with the following exception:

- a. the minimum interior side yard and minimum rear yard setback shall be 0.6 m (2 ft); or
- b. the minimum interior side yard and minimum rear yard setback for an accessory structure intended for the parking or storage of a motor vehicle shall be 1.2 m (3.9 ft).

No **buildings** or **structures** of any kind, including a patio, swimming pool, deck or **accessory building** or **structure**, shall be **erected**, installed or maintained on any portion of a **lot** which is identified as a leaching bed or septic system area.

4.2.4 Permitted Floor Area for Accessory Buildings

The maximum **ground floor area** permitted for all **accessory buildings** or **structures** located on a **lot** as is follows:

1. Ten percent (10%) of the total **lot area** for a **lot** in a Residential Zone, and a **lot** in the Agricultural Zone with a **lot area** less than or equal to 8,000 m² (0.8 ha).
2. Five percent (5%) of the total **lot area** for a **lot** in a Commercial, Industrial, Institutional or Open Space Zone.
3. Five percent (5%) of the total **lot area** for a **lot** in the Agricultural Zone with a **lot area** greater than 8,000 m² (0.8 ha) and less than or equal to 350,000 m² (35 ha).
4. One percent (1%) of the total **lot area** or a maximum of 4,000 m² (0.4 ha), whichever is less, for a **lot** in the Agricultural Zone with a **lot area** greater than 350,000 m² (35 ha).

4.2.5 Height of Accessory Buildings

No **accessory buildings** or **structures** shall exceed a **height** of 4.7 m (15.1 ft) except on lands zoned Agricultural (A), or as otherwise provided herein.

4.3 Shipping Container Regulations

Notwithstanding the other regulations of this By-law the following provisions shall apply to **shipping containers**:

1. Shall only be permitted in the Agricultural, Rural Industrial, and Highway Commercial Zones;
2. Shall not be permitted as the sole **structure** on any property, except in the case of a **self-storage facility**;
3. Shall only be permitted for the **use** of **accessory** storage to a permitted **use**, and shall not be **used** for human habitation, display, advertising, screening, or fencing;
 - a. Notwithstanding the above, a **shipping container** may be permitted for the transportation of goods and materials within the Rural Industrial Zone;
4. Shall only be located to the side or the rear of the permitted **use** provided that it is:
 - a. Screened from view from the **street** and abutting properties;
 - b. Complies with the **lot coverage** and **setback** requirements of the Zone;
 - c. Not be located in any required **yard**; and
 - d. Not located in any required **parking areas** or landscape buffer.
5. Shall be included in all calculations for the purpose of determining maximum **lot coverage**.
6. Shall be in a condition free from rust, peeling paint and any other form of visible deterioration;

7. In no case shall a **shipping container** be permitted on a **lot** having less than 0.4 hectares;
8. Shall not exceed a **height** of 3 m and a length of 12 m, and shall not be stacked one on top of the other;
9. The maximum number of **shipping containers** on any property shall be limited to 2;
 - a. Notwithstanding the above, when **used** for the transportation of goods and materials or as a **self-storage facility** within the Rural Industrial Zone no maximum shall apply.
10. Shall comply with the requirements of the Ontario Building Code; and
11. Notwithstanding the above a **shipping container** may be permitted for temporary storage on construction sites in accordance with Section 4.15.

[Amended by By-law 7-2022]

4.4 Additional Residential Unit Regulations

A maximum of two **additional residential units** shall be permitted per **lot** in any zone where an **additional residential unit** is permitted, and shall only be **constructed** or **used** in accordance with the following:

4.4.1 General Provisions

1. Shall only be permitted provided that appropriate water and sanitary services and servicing capacity is available to the satisfaction of the Township of Guelph/Eramosa.
2. The maximum **floor area** of an **additional residential unit** shall be no more than an amount equal to 45% of the **floor area** of the **main** dwelling up to a maximum size of 130 m². The calculation of the maximum **floor area** for the **additional residential unit** and the **main** dwelling shall also include a **cellar** and **attic** if these spaces would meet the definition of a **habitable room**.
3. In all cases the **additional residential unit** shall be clearly secondary and subordinate to the **main** dwelling.
4. The **height** of the **additional residential unit(s)** shall not exceed the **height** of the **main** dwelling.
5. Driveway access to both the **main** dwelling and the **additional residential unit** shall be limited to one access so that no new entrance from the **street** shall be created, except in the case of a

corner lot, where one entrance from each **street** may exist, subject to Section 4.19 or Section 4.20 as applicable.

6. One **parking space** will be provided for each **additional residential unit**, in addition to the required parking for the **main** dwelling.
7. Shall not be permitted within hazardous lands as identified by the applicable Conservation Authority.
8. Shall be required to conform to all Ontario Building Code and Ontario Fire Code regulations.
9. Shall be required to conform to Minimum Distance Requirements (4.24.1), where applicable.

[By-law 46-2022]

4.4.2 Attached Additional Residential Unit

One **additional residential unit** is permitted within the **main** dwelling or attached to the **main detached dwelling**, subject to the provisions in Section 4.4.1 and the following:

1. In addition to Section 4.4.1.2, the following is applicable:
 - a. If the **additional residential unit** is located in a **basement**, the **additional residential unit** may occupy the whole of the **basement**.
 - b. Where an attached **garage** is converted to create an **additional residential unit** (in whole or in part), the attached **garage** will be included in calculation of the floor area of the main dwelling.
2. When exterior alterations to the **main** dwelling are proposed for an attached **additional residential unit**, the following applies:
 - a. The siting of an **additional residential unit** shall be to the rear or side of the **main** dwelling; and
 - b. Shall comply with the **yard** and setback requirements of the Zone in which such **buildings** are situated.

[By-law 46-2022]

4.4.3 Detached Additional Residential Unit

One **additional residential unit** is permitted in an **ancillary building** or **structure**, subject to the provisions in Section 4.4.1 and the following:

1. Shall be located on the same lot as the main dwelling and the **additional residential unit** shall not be severed from the **main** dwelling.
2. The **ancillary building** or **structure** must be located within the main building cluster and shall not be located more than 60 m away from the main dwelling.
3. The **ancillary building** or **structure** is to be screen and/or buffered to the satisfaction of the Township of Guelph/Eramosa in order to minimize visual impacts.
4. A detached **additional residential unit** can occupy a part of or the entirety of an **ancillary building** or **structure**.
5. If the **additional residential unit** occupies the entirety of an **ancillary building** or **structure**, the following additional provisions are applicable:
 - a. Shall comply with the minimum required **yard** standards in which the unit is situated;
 - b. Shall not exceed 5 metres in height.
6. Notwithstanding Section 4.2.5, in the Agriculture (A) Zone, if the **additional residential unit** occupies the second storey of an **ancillary building** the maximum height shall not exceed 8 metres.
7. All provisions within Section 4.2 are applicable, except for provisions that conflict with Sections 4.4.3.5 and 4.4.3.6.
8. A **garden suite** must not be located on the same lot.

[By-law 46-2022]

4.4.4 **Accessory Dwelling Unit in Commercial Zone Regulations**

Wherever an **accessory dwelling unit** is permitted in a Commercial Zone by this By-law, such an **accessory dwelling unit** shall only be constructed or used in accordance with the following:

1. Driveway access to both the commercial use and the **accessory dwelling unit** shall be limited to one access so that no new entrance from the street shall be created, with the exception of a corner lot, where one entrance will be permitted from each street.
2. The **accessory dwelling unit** shall be located above or behind the **main** commercial use.
3. The maximum **gross floor area** of an **accessory dwelling unit** that is located behind a commercial use shall be no more than an amount equal to 40% of the **gross floor area** of the commercial use, to a maximum size of 115 m².
 - a. Notwithstanding the above, if the **accessory dwelling unit** is located above a commercial use, the **accessory dwelling unit** may occupy the whole of the upper level floor.
4. A maximum of one **accessory dwelling unit** per lot will exist, and shall be **accessory** to the commercial use. Where residential uses exist above a commercial use, an **accessory dwelling unit** will not be permitted to the rear of the commercial use.
5. One parking space will be provided for the **accessory dwelling unit**, in addition to the required parking for the commercial use.
6. Shall only be permitted provided that appropriate water and sanitary services and servicing capacity is available to the satisfaction of the Township of Guelph/Eramosa.

4.5 **Garden Suites Regulations**

A **garden suite** shall be permitted in the Rural Residential and Agricultural Zones, subject to an approved Temporary Use By-law, in accordance with Section 39 of the Planning Act. A **garden suite** shall be subject to the following regulations:

1. A **garden suite** shall be portable and temporary.

2. Driveway access to both the **main dwelling unit** and the **garden suite** shall be limited to one so that no new entrance from the **street** shall be created, except in the case of a **corner lot**, where one entrance from each **street** shall be permitted.
3. The siting of a **garden suite** shall comply with all **setbacks** of the Zone, and shall be located to the rear or side of the **main dwelling unit**, unless adequate screening/buffering, where deemed necessary, is provided to minimize the visual impact of the **garden suite** to adjacent properties.
4. The maximum floor area shall be 140 m² provided that the floor area of the **garden suite** remains less than that of the **main dwelling unit**.
5. The maximum **height** shall be one **storey**, and shall not exceed 4.5 m.
6. No **garden suite** shall be located closer than 3 m to the **main dwelling unit** on the **lot** or any **building** on an abutting property.
7. Only one **garden suite** may be established per **lot**.
8. All **garden suites** shall be provided with adequate water and sewage disposal systems, as per the Ontario Building Code.

4.6 Sight Line Triangle

Any **building**, **structure**, or object **erected** in accordance with this By-law shall comply with the definition of a **sight line triangle**.

4.7 Street Frontage Required

No **person** shall **erect** any **building** or **structure** in any Zone unless the **lot** upon which such **building** or **structure** is to be **erected** has **frontage** on an improved **street**.

4.8 Through Lots

Where a **lot** which is not a **corner lot** has **frontage** on more than one **street**, the setback and **front yard** requirements contained herein shall apply on each **street** in accordance with the provisions of the Zone or Zones in which such **lot** is located.

4.9 Yard Encroachments

Every part of any **yard** required to be provided in any Zone shall be open and unobstructed from the ground to the sky, with the following exceptions:

Structure	Relief provided	Yard that must be maintained
A gate house in an Industrial or Open Space Zone	May encroach into a required interior side yard or front yard	None, provided other restrictions of this By-law such as sight line triangles are maintained.
Accessory buildings	May be located within the 30 m setback of a railway right-of-way	The setback of the Zone
Balconies and steps (covered or uncovered), unenclosed porches, or decks.	2.5 m into a required yard	2.5 m yard is required to be maintained.
Fences, walkways (including inset steps where a slope prohibits walkways), freestanding walls, flagpoles, light standards, hedges, trees, shrubs and similar accessory structures and appurtenances	No yard required	None, provided other restrictions of this By-law such as sight line triangles are maintained.
Fire escapes and exterior staircases	1.5 m into a required side yard or rear yard	Required yard less 1.5 m
Fuel pump islands and fuel pumps	No yard required	4.5 m yard is required to be maintained
Outdoor amenity area	May encroach into a required interior side yard or rear yard	None, provided other restrictions of this By-law such as sight line triangles are maintained.
Satellite dishes	May encroach into a required interior side yard or rear yard	3 m yard is required to be maintained
Signs	No yard required	None, provided other restrictions such as any applicable sign by-law are complied with.
Window sills, chimney breasts, belt courses, cornices, eaves and other architectural features	1 m into required yard	Required yard less 1 m

4.10 Height Exceptions

The **height** regulations of this By-law shall not apply to any ornamental dome, clock tower, chimney, belfry, storage silos, barn, grain elevator, cupola, steeple, spire, an elevator shaft, water storage tank, elevating device, flagpole, television or radio antenna or tower, ventilator, windmill, air conditioner duct, grain drying equipment, clothesline, skylight, or solar collector.

4.11 Buffer Strips

4.11.1 Buffer Strip Requirements

Notwithstanding the **yard** and setback provisions of this By-law, where a **lot** is **used** for a non-residential **use** other than agriculture and the **interior lot line** or **rear lot line** abuts a residential **use**, then a strip of land adjoining such abutting **lot line**, shall be **used** for no other purpose than a **buffer strip** in accordance with the regulations of Section 4.11.2.

Notwithstanding the **yard** and setback provisions of this By-law, where a **parking lot** and/or a **parking area** is situated on a **lot** along a **lot line** which abuts a residential **use**, a visual barrier shall be provided and maintained along such abutting **lot line** in accordance with the regulations of Section 4.11.2.

Notwithstanding the **yard** and setback provisions of this By-law, where a **lot** is **used** for an extractive **industrial use**, then a strip of land adjoining abutting **lots**, shall be **used** for no other purpose than a **buffer strip** in accordance with the regulations of Section 4.11.2.

[Amended by By-law 7-2022]

4.11.2 Buffer Strip Regulations

1. Minimum width of 1.5 m.
2. A **buffer strip** may consist of:
 - a. a continuous unpierced hedgerow of evergreens or shrubs,
 - b. a solid privacy fence,
 - c. a solid wall,
 - d. an earth berm,
 - e. or combination thereof.
3. The **buffer strip** shall not be less than 1.5 m in **height**, immediately adjacent to the **lot line** or portion thereof along which such **buffer strip** is required. The remainder of the strip may be **used** for shrubs, flowerbeds, grass or a combination thereof.

4. In all cases where the ingress and egress of a driveway and/or walk extend through a **buffer strip**, it shall be permissible to interrupt the **buffer strip** within 1.5 m of the edge of said driveway and/or walk.
5. The planting strip shall be planted and maintained by the owner or owners of the land on which the planting strips are required;
6. The **buffer strip** shall be in accordance with the Township's Landscape Guidelines, as applicable; and
7. A **buffer strip** referred to in this Subsection may form part of any **landscaped area** required by this By-law.

4.12 Home Occupation Regulations

A **home occupation** is permitted within a **dwelling unit** by a resident of said **dwelling unit**, subject to the following regulations:

1. The **home occupation** is clearly secondary to the **main** residential **use** and does not change the residential character of the **dwelling unit** nor create or become a public nuisance in particular in regard to noise, traffic or parking;
2. Only two employees in addition to the permanent residents of the **dwelling unit** may be employed;
3. No external storage, external display of goods or materials, or **accessory buildings** may be **used** in relation to a **home occupation**;
4. No external display or advertising other than a fascia or ground **sign** having a maximum area of 0.2 m² which does not include changeable copy or internal illumination;
5. No mechanical equipment, except that which is customarily **used** in dwellings for domestic or household purposes, or for **use** by a dentist, drugless practitioner, physician, or other professional **persons**;
6. Up to 25% of the **gross floor area** of the **dwelling unit** may be **used** for **home occupation** purposes; and
7. The parking requirements of this By-law shall apply to any **home occupation use**, in addition to the required spaces for the **dwelling unit**.

4.13 Farm Home Industry Regulations

1. A **farm home industry** must be located on a farm, and shall be secondary to the **agricultural use**.
2. A **farm home industry** shall include a carpentry shop, a **contractor or tradesperson establishment**, a welding shop, a **machine shop**, a plumbing shop, an electrical shop, furniture fabrication, assembly and repair, tool and equipment repair shop, small engine repair, farm implement repair; or a **use** of a similar nature to those listed above.

3. The **farm home industry** must employ at least one **person** who dwells on the property and may employ two additional employees.
4. All **buildings, structures, parking areas** and loading areas **used** for the **farm home industry** shall not occupy an area exceeding 2% of the **lot**, to a maximum of 0.4 hectares in area.
5. A **farm home industry** must be appropriate for rural servicing and be compatible with **agricultural uses**.
6. There shall be no **open storage** of materials, supplies, tools, equipment or goods which are **used** for, or result from, the **farm home industry**.
7. A **farm home industry** must comply with all applicable by-laws and regulations such as noise and parking regulations.

4.14 Public Uses

The provisions of this By-law shall not apply to:

- the **use** of any **lot** or to the **erection** or **use** of any **building** or **structure** for purposes of providing public services by the **Corporation** or the **County** as defined by the Municipal Act,
- any telephone or telegraph company,
- any natural gas transmission and distribution system operated by a company and possessing all the necessary powers, rights, licences and franchises,
- any wayside pits and quarries, portable asphalt plants and portable concrete plants used for public authority contracts,
- any Conservation Authority established by the Government of Ontario,
- any Department of the Government of Ontario or Canada, including Hydro One Networks Inc. or agent thereof, or
- any **use** permitted under the Railway Act or any other statute of Ontario or Canada governing railway operations, including tracks, spurs and other railway facilities provided that an above ground **use** in a Residential Zone shall be enclosed in a **building** designed and maintained in general harmony with residential **buildings/dwelling units** of the type permitted in that Zone.

4.15 Temporary Uses

Nothing in this By-law shall prevent the **use** of any land, or the **erection** or **use** of any **building**, trailer or **structure** for a construction camp, work camp, temporary accommodation tool shed, scaffold or other **building** or **structure** incidental to and necessary for construction work on the premises, 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 **use** will be subject to the retention of a valid building permit.

4.16 Uses Permitted in All Zones

The following **uses** are permitted in all Zones within the **Corporation**:

1. The **use** of any land as a public **park**, playground, **street**, walkway, site for a statue, monument, cenotaph, fountain, or other memorial or ornamental **structure**.
2. The installation or maintenance of a water main, sanitary sewer main, storm sewer main, pumping station, gas main, pipeline, storm water management facility, lighting fixture, overhead or underground electrical services, cable television, telegraph or telephone line or associated tower or transformer, together with any installations or **structures** appurtenant thereto.
3. The **use** of land for a **street** or a public railway, including any installations, **structures** appurtenant thereto.

4.17 Uses Restricted in All Zones

1. No **use** shall be permitted which due to its nature, or the materials **used** therein, or emissions issuing therefrom, is determined to be a noxious trade, business or manufacturing process.
2. No land, **building**, or **structure** shall be **used** if it is likely to create a public nuisance or danger to health or danger from fire or explosion except in accordance with the provisions and regulations under the Gasoline Handling Act.
3. No **use** shall be permitted where the approval of private water or sanitary treatment and disposal facilities has not been obtained from the Chief Building Official or the Ministry of the Environment, as the case may be.
4. The following **uses** are prohibited throughout the **Corporation**, either alone or in conjunction with other **uses** except as is otherwise specifically provided herein:
 - a. a **salvage yard**;
 - b. a **mobile home park**;
 - c. a track or course for the racing and/or testing of motorized vehicles;
 - d. the boiling of blood, tripe, bones or soaps for commercial purposes;
 - e. the tanning or storage of uncured hides or skins;
 - f. the manufacturing of glue or fertilizers from dead animals or from human or animal waste;
 - g. an abattoir, stockyard, livestock exchange, or dead stock depot;
 - h. the extracting of oil from fish or animal matter;

- i. any **use** which causes the emission of corrosive gasses, toxic gasses or radioactive gasses or, into any Zone other than an Industrial Zone, or electromagnetic fields, heat, glare, non-agricultural odours, noise, vibrations, dust, dirt, fly ash or smoke which does not comply with emission regulations as may be established from time to time by the Province of Ontario, the Government of Canada, or any agencies thereof;
- j. the keeping or raising of livestock or wild animals in any Residential Zone unless otherwise permitted;
- k. an **adult entertainment establishment**;
- l. a **body rub parlour**;
- m. the parking or storage of trailers or **commercial motor vehicles** on a vacant **lot**;
- n. the outdoor storage of a partially dismantled **motor vehicles** or trailers or **motor vehicle** or trailer parts unless otherwise specifically permitted by this By-law;
- o. any **use** unable to obtain the approval from the Medical Officer of Health or Ministry of the Environment and Energy, owing either to the quantity of water required thereof or to the quality of effluent produced thereby;
- p. the **use** of any tent, trailer, truck, bus, coach body, rail car or vehicle for human habitation, except where permitted by this By-law;
- q. the **use** of any **accessory building** or **structure** for human habitation or for gain or profit, unless as otherwise permitted by this By-law.

[Amended by By-law 7-2022]

4.18 Source Protection Screening Areas

Within the Source Protection Screening Areas Overlay shown on Schedule 'C', any use that is, or would be, a *significant drinking water threat* is required to conform with all applicable Grand River Source Protection Plan policies and, as such, may be prohibited, restricted, or otherwise regulated by that Source Protection Plan.

Explanatory Notes:

1. An application for development, redevelopment, or site alteration within a Source Protection Screening Area, where a drinking water threat could be significant, shall only be deemed complete under the *Planning Act* if submitted with a Section 59 Notice issued by the Risk Management Official, as appointed by the Township, in accordance with the *Clean Water Act, 2006* and where applicable in accordance with the Grand River Source Protection Plan.

2. The Risk Management Official, as appointed by the Township, shall determine whether a new land use or activity is, or involves, a significant drinking water threat in accordance with the Clean Water Act, 2006 and whether the use or activity is regulated or prohibited in accordance with the Grand River Source Protection Plan.

4.19 Greater Restrictions

This By-law shall not be effective to reduce or mitigate any restrictions lawfully imposed by a government authority having jurisdiction to make such restrictions.

4.20 Setbacks from Roads not under the Authority of the Corporation

Notwithstanding any other provisions of this By-law, no **building** or **structure** shall be located closer than 22.5 m to **County Roads** with the exception of those **buildings** or **structures** located within the boundaries of an Urban Centre or Hamlet as identified in the Wellington County Official Plan. All **buildings** shall be located to the greater of any setback.

Notwithstanding any other provisions of this By-law, no **building** or **structure** shall be located within the **setback** as set out by the Ministry of Transportation for the specific **use** and location, in proximity to **Provincial Highways**.

This distance shall be measured at a right angle to the **center line** of the **street** abutting such **yard**, commencing from the **center line** in the direction of the applicable **yard** of such **lot** or parcel of land.

4.21 Maintaining Existing Road Setback

Notwithstanding any other provisions of this By-law, subject to the approval of the appropriate road authority, on any **lot** between two **existing buildings** which are not more than 42.7 m apart, a new **building** may be **constructed**, having a setback from the **center line** of the road allowance which is equal to the average setback of the adjacent **buildings** on the same block if the average setback is less than the required **yard**.

4.22 Railway Setbacks

No **person** shall **use** any **lot** or **erect, alter** or **use** any **building** or **structure** within 30 m from the right-of-way of a railway, unless supported by the applicable rail authority. See Section 4.9 regarding relief provided for **accessory buildings**.

4.23 Watercourse Setbacks

No **person** shall **use** any **lot** or **erect, alter** or **use** any **building** or **structure** within 30 m from the centre of a watercourse or **municipal drain**.

4.24 Minimum Distance Separation – MDS I AND II

4.24.1 MDS I – New Non-Farm Uses

Notwithstanding any other **yard** or setback provisions of this By-law to the contrary, no residential, institutional, commercial, industrial or recreational **use**, located on a separate **lot** and permitted within a Zone, shall be **erected** or **altered** unless it complies with the Province of Ontario's Minimum Distance Separation (MDS I) Formulae, as may be amended.

Notwithstanding, the above provisions shall not apply to **lots existing** as of October 19, 1999 which are less than 40,000 m² (4 ha).

4.24.2 MDS II – New or Expanding Livestock Facilities

Notwithstanding any other **yard** or setback provisions of this By-law to the contrary, no **livestock facility** shall be **erected** or expanded unless it complies with the Province of Ontario's Minimum Distance Separation (MDS II) Formulae, as may be amended.

Notwithstanding the above, an **existing** manure storage system which does not meet the MDS II requirements, may be replaced by a more compatible system which results in a reduction in the separation distance required, provided the livestock housing capacity is not increased.

Notwithstanding the above, new livestock facilities will not be permitted on **lots** less than 8,000 m² (2 acres) in size.

Notwithstanding Section 4.30, for the purposes of this provision if the **lot** is partially within the Environmental Protection Zone that portion of the **lot** within the Environmental Protection Zone will not be **used** in calculating the **lot area**.

4.25 Setbacks from Environmental Protection Zone

Notwithstanding any other provisions of this By-law, no **building** or **structure** (including a private sewage treatment system) shall be **constructed** within 30 m from the limit of an Environmental Protection Zone.

Notwithstanding the above, the setback may be reduced to that permitted by the applicable approval authority (Grand River Conservation Authority and/or the County of Wellington) through more detailed mapping on individual sites. Where more detailed mapping is available, minor adjustments may be made without an amendment to this By-law, and the permitted land **uses** of the adjacent Zone will be applied as determined by **Council**.

Notwithstanding the above, the setback may be reduced in the following circumstances:

1. Where a **building** or **structure existing** on October 19, 1999 is located within the required **setback** an addition and/or new **accessory buildings** and **structures** shall be permitted provided that a **setback** of 3 m is maintained.
2. Where a vacant **building lot** existed on October 19, 1999, a building permit may be issued for permitted **buildings** or **structures**, excluding new agricultural **buildings** and **structures** provided that:
 - a. there is no other suitable location on the **lot** outside of the 30 m setback, and
 - b. a setback of at least 3 m from the Environmental Protection Zone boundary is maintained.

4.26 Number of Dwelling Units per Lot

With the exception of multiple-unit dwellings as defined in this By-law, and where otherwise specified in this By-law, no more than one **dwelling unit** shall be **erected** on any **lot**.

Notwithstanding the above, in the case where a detached dwelling exists on a **lot**, and a new detached dwelling is proposed to be **constructed** on the same **lot**, with the intention of demolishing or discontinuing the residential use of the **existing** detached dwelling once construction on the new detached dwelling has completed, two detached dwellings may exist temporarily on the same **lot** in conjunction with the appropriate building permit, and subject to entering into a Development Agreement with the **Corporation**, in accordance with the associated Corporate Policy.

4.27 Outdoor Display

In the Commercial and Industrial Zones, the outdoor display of goods, **accessory** to the **main use**, for sale or hire shall be permitted in accordance with the following provisions:

1. Shall not cover more than 40% of the **lot area**.
2. Shall not be located within a required **yard**, including **sight line triangles**.

3. Shall not obstruct or occupy any required **parking area**.
4. Area to be **constructed** of a stable surface and treated to prevent erosion and the raising of dust and loose particles.
5. Area to be graded and drained so as to prevent the pooling of surface water or the flow of surface water onto adjacent **lots**.

4.28 Outdoor Storage

In the Highway Commercial and Rural Industrial Zones, the outdoor storage of goods, materials, and equipment, **accessory** to the **main use**, shall be permitted in accordance with the following provisions:

1. Located to the rear of the front wall of the **main building**, but not in a required **side yard** nor a required **rear yard**.
2. Not cover more than 40% of the **lot area**.
3. Shall be visually screened from the **street** and any abutting land Zoned or **used** for residential or institutional purposes by a **buffer strip** in accordance with Section 4.11.

4.29 Amenity Areas for Multiple-Unit Buildings

Notwithstanding anything else in this By-law, no **person** shall **use** or **erect** an **apartment building** or **cluster townhouse building** unless an **amenity area** is provided on the same **lot** as the **main residential building** or **buildings**. Any required areas shall:

1. be located indoors, outdoors at grade, or outdoors as a rooftop garden.
2. include some permanent features from each category in each outdoor **amenity area**:
 - a. Benches, tables, play **structures**, equipment, or **structures** for human activity such as resting, eating or **recreational uses**.
 - b. Trees, shrubs, gardens or similar landscaping features providing relief to the built environment.
3. include some of the following permanent features in each indoor **amenity area**:
 - a. Benches, tables, play **structures**, equipment, or **structures** for human activity such as resting, eating or **recreational uses**.
4. be accessible to all residents.
5. not be located within 4.5 m of a wall, if located outdoors at grade.
6. include a minimum of 5 m² of **amenity area** per **dwelling unit**, and shall be aggregated into areas of not less than 50 m². No more than 25% of the total **amenity area** may be an outdoor rooftop garden.

7. be designed and located so that the length does not exceed 4 times the width.

4.30 Lots with More than One Zone

Where a **lot** is divided into two or more Zones, each separately Zoned portion of the **lot** within the separate Zones shall be considered a separate **lot** for zoning purposes and shall be **used** in accordance with the provisions which are applicable to each Zone.

Notwithstanding the above, when the **lot** is partially within the Environmental Protection Zone that portion of the **lot** within the Environmental Protection Zone may be **used** in calculating total **lot area**, **lot frontage**, setbacks and **yards**, provided that the lands outside the Environmental Protection Zone meet the requirements of the Ontario Building Code relative to private sanitary treatment and disposal facilities.

4.31 Surplus Farm Residence Severance

Where the County of Wellington has approved the severance of a surplus farm residence property, Special Provision 21.193 shall apply.

4.32 On-Site Snow Storage

New Commercial, industrial, institutional, mixed **use**, and multi-unit residential **uses** shall provide a location for on-site snow storage. The snow storage shall not be located in any part of a required **parking space**.

[Amended by By-law 7-2022]