

SECTION 2
ADMINISTRATION

This By-law shall be administered by the Director of Planning.

2.1 CONTRAVENTIONS AND PENALTIES

.1 PERSON

Every person who contravenes any of the provisions of this by-law is guilty of an offense and on conviction is liable:

- a) on a first conviction to a fine of not more than \$25,000.00; and
(By-law 92-1, S.3)
- b) on a subsequent conviction to a fine of not more than \$10,000.00 for each day or part thereof upon which the contravention has continued after the day on which he was first convicted.

.2 CORPORATION

Where a corporation is convicted under Section 2.1.1 of this By-law, the maximum penalty that may be imposed is:

- a) on a first conviction a fine of not more than \$50,000.00; and
- b) on a subsequent conviction a fine of not more than \$25,000.00 for each day or part thereof upon which the contravention has continued after the date on which the corporation was first convicted, and not as provided in Section 2.1.1.
(By-law 92-1, S.4)

.3 RECOVERY OF PENALTIES

Penalties imposed by conviction under this Section shall be recoverable under The Provincial Offenses Act, R.S.O. 1980, as amended.

.4 FAILURE TO COMPLY

Where a person fails to comply with the provisions of sections 5.13, 5.6A2, 6.1, 6.3, 6.4, 6.5 and 40.2.5, 41.2.5, 42.2.5, 43.2.2, 44.3.5, 45.3.5, 46.3 and 47.2.2 of this by-law, the City may take such actions as necessary to effect compliance with those provisions at the person's expense, in accordance with section 446 of the Municipal Act.
(Amended: By-law 2023-181, S.1)

2.2 LICENCES AND PERMITS

No person is entitled to a permit, certificate or licence for a proposed use of land or a proposed alteration, erection, enlargement or use of any building that is in violation of any provisions of this By-law.

2.3 ZONING (OCCUPANCY) CERTIFICATE

No change may be made in the type of use of any land covered by this By-law or change in the type of use of any building on any such land without a Zoning (Occupancy) Certificate being issued by the Director of Planning to the effect that the proposed use is not contrary to this By-law. A Zoning (Occupancy) Certificate shall be required for each use contained within a building containing multiple uses. Notwithstanding the above, no zoning (occupancy) certificate shall be required for a single detached dwelling with or without one additional dwelling unit (attached), duplex dwelling, semi-detached dwelling with or without one additional dwelling unit (attached), semi-detached duplex dwelling, private home daycare or commercial parking facility.

(Amended: By-law 2023-102, S.1)

2.4 a) LEGAL NON-COMPLIANCE OF BUILDINGS AND STRUCTURES

Legally existing buildings and structures which do not comply with all regulations of this By-law may be restored or replaced if destroyed by fire or nature disaster, or demolished by order of any government authority provided such non-compliance, including gross floor area, dimensions or height, is not increased, except in accordance with this By-law.

(By-law 2010-097, S.4)

2.4 b) LEGAL NON-CONFORMING USES

A building containing a legal non-conforming use which is destroyed by fire or natural disaster, or demolished by order of any governmental authority, may be restored or replaced on its original site provided the floor area, dimensions or height are not increased.

(By-law 2010-097, S.4)

2.4 c) DEEMED TO COMPLY: SITE PLAN AGREEMENTS AND SITE PLAN APPROVALS

Where a Site Plan Agreement has been entered into and signed by Owner and the City of Kitchener prior to December 31, 2013 or where Site Plan Approval has been granted but a Building Permit for the applicable project has not been issued, the provisions amended, deleted, or added as part of By-law 2013-138 shall be deemed to be modified to the extent necessary to give effect to the Site Plan Agreement or Site Plan Approval, provided that the Building Permit is issued prior to December 31, 2015.

(By-law 2013-138, S.10)

2.4 d) **DEEMED TO COMPLY: SITE PLAN AGREEMENTS AND SITE PLAN APPROVALS**

Where a complete Site Plan application has been received by the City of Kitchener prior to July 31, 2014, and where a Site Plan Agreement has been entered into and signed by Owner and the City of Kitchener prior to December 31, 2014, and where a Building Permit is issued prior to July 31, 2016, the following shall apply:

- a) Notwithstanding Section 4.2 of this By-law, Building Height shall mean the vertical distance between the highest finished grade level at the perimeter of the building and the uppermost point of the building. Provided, however, where this by-law requires building height to be calculated to determine a minimum rear yard or a minimum side yard requirement, building height shall mean the vertical distance between the lowest finished grade elevation along the lot line related to such yard at that point closest to the building and the horizontal extension of the uppermost point of the building. Antennae, chimneys, spires, cupolas, elevator penthouses, or other similar features shall be disregarded in calculating building height. In the case of a building on a lot within more than one zone, building heights shall be measured to the uppermost point of that portion of the building within each zone.
- b) Notwithstanding Section 6.1.2.a of this By-law, the minimum required off-street parking for a Multiple Dwelling totaling 4 or more dwelling units containing dwelling units having a floor area of 51.0 square metres or less may be 0.165 spaces for each dwelling unit less than 51.0 square metres in size, provided that this does not apply to more than 60% of all dwelling units on a lot.

(OMB Order PL140037, By-law 2013-146 (Amended), S.1)

2.4 e) **DEEMED TO COMPLY: PROPERTY SPECIFIC SITE PLAN AGREEMENTS AND SITE PLAN APPROVALS**

Where a complete Site Plan application has been received by the City of Kitchener prior to June 30, 2016, and where a Site Plan Agreement has been entered into and signed by Owner and the City of Kitchener and a Building Permit is issued prior to December 31, 2016; the following shall apply:

- a) Notwithstanding Section 6.1.2.a of this By-law, the minimum required off-street parking for a Multiple Dwelling totaling 4 or more dwelling units containing dwelling units having a floor area of 51.0 square metres or less may be 0.165 spaces for each dwelling unit less than 51.0 square metres in size, provided that this does not apply to more than 60% of all dwelling units on a lot.
- b) Regulations outlined in subsection a) above shall apply only for properties municipally addressed as:
 - 54 Bridge Street West (Pt. Lot 59 GCT, being Pts 2 & 3 on 58R-17146; Kitchener),
 - 190 Century Hill Drive (Block 425, Plan 1375 Kitchener),
 - 51-53 David Street (Lot 146 Subdivision of Lot 17 GCT, Kitchener),
 - 58 Howe Drive (Part Lot 47 GCT, Being Part 1 on 58R-13007; Kitchener),
 - 169 Lancaster Street West (Part Park Lot 551, Plan 378, Kitchener; Part Lot 119 Streets & Lanes Kitchener Part 1, 2, 58R3605; Kitchener),
 - 361-371 Lancaster Street West (Part Lot 19-20 Plan 789, Kitchener as in 286987 & 833644; Kitchener),

- 65 Madison Avenue South (Part Lot 4 E/S Albert St. Plan 365, Kitchener as in 1385735; Kitchener),
- 71 Madison Avenue South (Part Lot 4 E/S Albert St. Plan 365 Kitchener as in 743228; Kitchener),
- 79 Madison Avenue South (Part Lot 4 E/S Albert St. Plan 365 Kitchener; Part Lot 5 Plan 390 Kitchener as in 480694; Kitchener; and
- 24 Morrison Road (Part Lot 2, Plan 987 Kitchener; Part Lot 12 Beasley's Old Survey Kitchener; Part Lot 53 GCT Kitchener Part 2 to 9, 11 & 12, 58R-5522; Kitchener).

(OMB Order PL140037, By-law 2013-146 (Amended), S.2)

2.4 f)

DEEMED TO COMPLY: PROPERTY SPECIFIC SEMI-DETACHED DUPLEX DWELLINGS UNDER CONSTRUCTION IN THE RESIDENTIAL FOUR (R-4) AND RESIDENTIAL FIVE (R-5) ZONES

Where a Building Permit has been received by the City of Kitchener prior to July 31, 2014, a Duplex Semi-Detached Dwelling is a permitted use and shall be considered to be existing prior to July 31, 2014, in accordance with Section 38.1 and 39.1, as amended, of this By-law, for the properties municipally addressed as:

- 19, 21 Birch Avenue,
- 15, 17 Chicopee Park Court,
- 707, 709 Frederick Street,
- 711, 713 Frederick Street,
- 199 Huck Crescent,
- 130, 132 Jackson Avenue,
- 51, 53 Pine Street,
- 306 Pioneer Drive
- 136 Moorgate Crescent,
- 162, 164 Morgan Avenue,
- 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 17 Rauch Court, and
- 61 Vicmount Drive

(OMB Order PL140037, By-law 2013-146 (Amended), S.3)

2.5

TECHNICAL REVISIONS TO THE ZONING BY-LAW

Technical revisions may be made to this By-law without the need for a Zoning By-law Amendment. Technical revisions means the correction of numbering, cross-referencing, grammar, punctuation or typographical errors, mapping errors, or revisions to format in a manner that does not change the intent of this By-law.

(By-law 2023-102, S.2)