

**SECTION 5****GENERAL REGULATIONS**

Unless specifically exempted or regulated elsewhere in this By-law, the following regulations shall apply to all lands covered by this By-law.

**5.1 PROHIBITED USES**

With respect to any lands to which this By-law applies, all uses are prohibited unless specifically permitted in this By-law.

**5.2 FRONTAGE ON A STREET**

No lot shall have built upon it, a building for any purpose in any zone unless the lot abuts a street. Provided however, that in the case of a lot separated from a street by land owned by the City or the Regional Municipality of Waterloo or the Province of Ontario which land is held by such public agency for future road widening purposes or as a .3 metre reserve, a building may be erected upon such lot if registered rights-of-way giving access to a street have been granted and such access scheme is part of a Development Agreement pursuant to The Planning Act, as may be outstanding as at the date of passage hereof, or as may be hereafter agreed to.

**5.3 PROHIBITED OBSTRUCTIONS IN VISIBILITY TRIANGLES**

Except in D-1 and D-2 Zones, no obstruction to visibility, whether from buildings, motor vehicles, landscaping or other impediments shall be permitted within a corner visibility triangle or any driveway visibility triangle; provided however, this shall not include objects 0.9 metres or less in height from grade. This regulation does not apply to the location of fences constructed in accordance with and regulated by Chapter 630 (Fences) of The City of Kitchener Municipal Code. The purpose being to allow complete view of oncoming motor vehicle and pedestrian traffic by other such traffic entering the intersection or street. (Amended: By-law 93-129, S.2) (Amended: By-law 2012-034, S.12) (Amended: By-law 2013-124, S.8) (Amended: By-law 2018-125, S.9)

**5.4 PROHIBITED OBSTRUCTIONS IN YARDS**

No building shall be erected within any required yard, except as provided in Sections 5.5, 5.6 or 5.7.

(By-law 94-1, S.6[a])

**5.5 ACCESSORY BUILDINGS (By-law 94-1, S.6[b])**

.1 Unless otherwise provided for in this By-law, no accessory building shall be used for human habitation.

.2 **Regulations for Buildings Accessory to Dwellings in a Residential, Institutional, Commercial-Residential, Mixed Use Corridor, Industrial-Residential (M-1) and Existing Use (E-1) Zone**

(By-law 98-108, S.1[a]); Amended: (By-law 2009-105, S.5) (Amended: By-law 2012-034, S.13)

a) Accessory buildings having a maximum gross floor area of 9.9 square metres and a maximum building height of 3.0 metres may be located in a required rear yard or a

required interior side yard; provided, however, no parts thereof may encroach beyond the lot line. This subsection shall not apply to an exterior side yard abutting a street. (By-law 2003-163, S.14, [a]) (Amended: By-law 2016-138, S.4)

- b) For buildings accessory to single detached dwellings, semi-detached dwellings, duplex dwellings and street townhouse dwellings the maximum building height shall be 5.5 metres, the maximum height of the underside of any fascia shall be 3.0 metres and the maximum lot coverage shall be 15 percent.  
(By-law 2005-106, S.4) (Housekeeping Amendment)
- c) Accessory Buildings which have a gross floor area in excess of 9.9 square metres or a building height in excess of 3.0 metres shall have a minimum side yard, excluding a side yard abutting a street, of 0.6 metres; or alternatively may have a minimum 0 metres and a maximum of 0.2 metres on one side provided the necessary easements and encroachments are provided in accordance with Section 5.20.  
(By-law 2003-163, S.14 [b])
- d) Accessory Buildings which have a gross floor area in excess of 9.9 square metres or a building height in excess of 3.0 metres shall have a minimum rear yard of 0.6 metres; or alternatively may have a minimum rear yard of 0 metres and a maximum of 0.2 metres provided the necessary easements and encroachments are provided in accordance with Section 5.20.  
(By-law 94-183, S.4) (By-law 98-108, S.1[b]) (By-law 2000-86, S.2[c]) (Residential Streetscapes)
- e) Accessory buildings shall not be located closer to a front lot line than the front face of the principle building on the property. (By-law 2013-124, S.9)

## 5.5A

**ATTACHED GARAGES FOR SINGLE DETACHED AND DUPLEX DWELLINGS**

The following provisions shall apply only to lots located within plans registered after May 29, 2000 being the date of passing of By-law 2000-86.

**.1 Garage Width**

In no case shall the width of a garage attached to a single detached or duplex dwelling exceed 70% of the width of the front façade closest to the street at ground level.

Notwithstanding the above, a storage alcove may be incorporated into the garage and may extend beyond the 70% limit provided that:

- a) the storage alcove is stepped back a minimum of 1.5 metres from the front façade of the garage nearest to the street;
- b) the entire width of the garage including both the vehicular parking area and the storage alcove shall not exceed 80% of the width of the façade at the ground level (measured from the centreline of the interior garage wall to the outside of the exterior wall); and,
- c) a man door is not located leading from the storage alcove to the outside along the front façade.

(Amended: By-law 2012-034, S.14)

**.2 Garage Sideyard**

A garage attached to a single detached or duplex dwelling located on a corner lot or on a lot less than 10.4 metres wide may be erected within a required interior sideyard provided:

- a) the minimum sideyard is not less than 0.6 metres; and
- b) a 0.6 metre easement is granted by the owner of the abutting lands for the maintenance of the garage walls, eaves and real property

**.3 Garage Projection**

The maximum distance that the front façade of a garage attached to a single detached or duplex dwelling, may project from:

- i) the front façade of the habitable portion of the dwelling, or
- ii) the roofline of a covered porch extending the full width of the habitable portion of the dwelling shall be as follows:

- a) For lots less than 12.1 metres wide, 3.0 metres;
- b) For lots 12.1 metres wide or greater, not greater than the width of the front façade of the habitable portion of the dwelling; and
- c) Notwithstanding clauses a) and b) above, where a portico is attached to the garage and located between the front façade of the dwelling and the front façade of the garage and extends the full width of the habitable portion of the dwelling, the maximum distance that the front façade of the garage may project ahead of the portico shall be 1.2 metres.

(By-law 2000-86, S.5) (Kitchener Residential Streetscapes)

**5.5B**

**ATTACHED GARAGES FOR SEMI-DETACHED HOUSES**

The following provisions shall not apply to a lot existing on August 28, 2006 provided a building permit for the dwelling has been issued before December 31, 2006.

**.1 Garage Width**

In no case shall the width of a garage attached to a semi-detached house exceed 60% of the width of the front façade closest to the street at ground level.

Notwithstanding the above, a storage alcove may be incorporated into the garage and may extend beyond the 60% limit provided that:

- a) the storage alcove is stepped back a minimum of 1.5 metres from the front façade of the garage nearest the street;

- b) the entire width of the garage including both the vehicular parking area and the storage alcove shall not exceed 70% of the width of the façade at ground level (measured from the centreline of the party wall to the outside of the exterior wall); and,
- c) a man door is not located leading from the storage alcove to the outside along the front façade.  
(By-law 2007-231, S.4)

**.2 Garage Projection**

The maximum distance that the front façade of a garage attached to a semi-detached house may project from:

- i) the front façade of the habitable portion of the dwelling, or
- ii) the roofline of a covered porch extending the full width of the habitable portion of the dwelling,

shall be 3 metres.

Notwithstanding the above, where a portico is attached to the garage and located between the front façade of the dwelling and the front face of the garage and extends the full width of the habitable portion of the dwelling, the maximum distance that the front façade of the garage may project ahead of the portico shall be 1.2 metres.

(By-law 2006-174, S.4)

5.5C

**ATTACHED GARAGES FOR STREET TOWNHOUSES**

The following provisions shall not apply to a lot existing on August 28, 2006 provided a building permit for the dwelling has been issued before December 31, 2006.

**.1 Garage Width**

In no case shall the width of a garage attached to a street townhouse exceed 70% of the width of the front façade closest to the street at ground level.

**.2 Garage Projection**

The maximum distance that the front façade of a garage attached to a street townhouse may project from:

- i) the front façade of the habitable portion of the townhouse, or
- ii) the roofline of a covered porch extending the full width of the habitable portion of the townhouse,

shall be 3 metres.

Notwithstanding the above, where a portico is attached to the garage and located between the front façade of the townhouse and the front face of the garage and extends the full width of the habitable portion of the townhouse, the maximum distance that the front façade of the garage may project ahead of the portico shall be 1.2 metres.

(By-law 2006-174, S.5)

5.5D **ATTACHED GARAGES FOR SINGLE DETACHED DWELLINGS, DUPLEX DWELLINGS, SEMI-DETACHED HOUSES, SEMI-DETACHED DUPLEX HOUSES, AND STREET TOWNHOUSE DWELLINGS FOR LANDS IDENTIFIED ON APPENDIX 'H'**

For lands identified on Appendix 'H' and zoned R-2, R-3, R-4, R-5, R-6, or R-7, an attached garage associated with a single detached dwelling, duplex dwelling, semi-detached house, semi-detached duplex house, and street townhouse dwelling shall not project beyond the front façade of the habitable portion of the dwelling.

(By-law 2018-094, S.3)

5.6 **PERMITTED YARD PROJECTIONS**

.1 **Steps and Access Ramps**

Steps or access ramps may be permitted within any required yard provided that:

- a) the maximum height is 0.6 metres above finished grade level within 3.0 metres of a street line; and
- b) the minimum setback from an interior side lot line or rear lot line is 0.75 metres;
- c) provided however, that in MU-I, MU-2 and MU-3 Mixed Use Corridor Zones the maximum height regulation shall not apply and the maximum area of steps and ramps shall not exceed 40% of the front yard area.
- d) Notwithstanding the above, steps and access ramps located at grade shall be permitted a minimum setback of 0 m, provided however, that no parts thereof encroach beyond the lot line.

(By-law 2008-154, S.1) (Amended: By-law 2013-124, S.10, S.11)

.2 **Canopies**

Canopies above doorways may be permitted within any yard provided such canopies:

- a) do not encroach more than 1.8 metres into a required front yard or a side yard abutting a street;
- b) are located greater than 0.5 metres from a street line, a side lot line or a rear lot line; and,
- c) are not supported by the ground.

.3 **Architectural Features**

The usual projections of window sills, chimney breasts, belt courses, cornices, eaves, and other similar architectural features may be permitted in any required yard, provided that no such feature shall project more than 0.6 metres into the required yard.

5.6A **PERMITTED YARD PROJECTIONS FOR DWELLINGS**  
(By-law 94-183, S.5[a]) (Amended: By-law 2010-097, S.9) (Amended: By-law 2012-034, S.15)

.1 **Balconies**

Balconies may extend within any yard provided that:

- a) they are not enclosed and are not supported by the ground;
- b) the minimum setback from a side lot line or rear lot line is 0.75 metres; and,
- c) the minimum setback from a front lot line is 3.0 metres.

(By-law 94-1, S.6[d]) (Renumbered by By-law 94-183, S.5[b])

.2 **Satellite Dishes and Antennas**

Satellite dishes and antennas shall not be located within a front yard, side yard or side yard abutting a street.

Notwithstanding the above, satellite dishes and antennas may be attached to a building provided they do not exceed 0.9 metres in diameter; provided, however, no parts thereof may encroach beyond the lot line.

(By-law 94-1, S.6[d]) (Renumbered by By-law 94-183, S.5[b])  
(Amended: By-law 2010-097, S.10)

.3 **Air Conditioners and Pumps**

Air Conditioners, pumps and other similar mechanical equipment shall be located only in accordance with the following regulations:

- a) Within a front yard or side yard abutting a street, provided such equipment has a minimum setback of 3.0 metres from the street line and is screened from the street by an enclosure or landscaping.
- b) Within a rear yard or interior side yard, provided no parts thereof may encroach beyond the lot line. (By-law 2009-105, S.6)

.4 **Terraces, Porches and Decks**

Terraces, porches and decks, attached or unattached to the main building, may be located within a required yard, only in accordance with the following regulations:

- a) set back a minimum of 3.0 metres from the front lot line or lot line abutting a street, whether or not covered, provided they are not enclosed and do not exceed 0.6 metres in height above finished grade level and in addition, a cold room may be located beneath the porch;
- b) subject to no minimum setback from a side or rear lot line provided they are not covered or enclosed and do not exceed 0.6 metres in height above finished grade level at that point on the side or rear lot line closest to the terrace, porch or deck;

- c) set back a minimum of 4.0 metres from a rear lot line provided they are not covered or enclosed and exceed 0.6 metres in height above finished grade level; and
- d) in compliance with the setback provisions required for the dwelling for front, side and rear yards in all other cases.
- e) Notwithstanding clauses a) b) and d) above, terraces, porches or decks attached or unattached to the main building of a structure designated under the Ontario Heritage Act, may be located, or reconstructed, within a required front yard, side yard abutting a street or side yard, provided that the setback, gross floor area, dimensions and height do not exceed what existed on or before March 5, 2012 and provided that a Heritage Permit application is approved.

(By-law 2000-86, S.3) (Amended: By-law 2012-034, S.16) (Amended: By-law 2013-124, S.12)

#### **.5 Pools and Hot Tubs**

Pools and Hot Tubs may be located within a required yard, only in accordance with the following regulations:

- a) set back a minimum of 0.6 metres from a side or rear lot line;
- b) set back a minimum of 2.1 metres from a side lot line abutting a street;
- c) shall not be located in a front yard.

(By-law 2005-106, S.3) (Housekeeping Amendment)

#### **5.6B USES ACCESSORY TO A RESTAURANT**

Patios, decks and outdoor recreation, attached or unattached to the main building, may be located within a required yard, only in accordance with the following regulations:

- a) set back a minimum of 30.0 metres from any Residentially or Institutionally zoned property except for lands fully developed with a non-residential use;
- b) In a Commercial Zone or Industrial Zone, set back a minimum of 3.0 metres from any lot line abutting a street;
- c) In a Downtown Zone, Mixed Use Corridor Zone or Commercial-Residential Zone, a minimum set back of 0.0 metres from any lot line abutting a street.  
Amended: (By-law 2009-105, S.7)

(By-law 2005-106, S.3) (Amended: By-law 2013-124, S.13)

#### **5.7 FRONT YARD BUILDING SETBACK**

In the case of a lot between two existing buildings both of which encroach upon the required front yard and are not more than 18.0 metres apart, a building may be located on such lot so that the front face of the building is no closer to the street line than the front face of that existing building which is located furthest from the street line.

#### **5.8 PUBLIC SERVICES**

Notwithstanding anything else in this By-law, the City or any of its local boards as defined in The Municipal Affairs Act, The Regional Municipality of Waterloo, Kitchener-Wilmot Hydro Inc., communications or transportation systems owned or operated by or for the citizens and any agency of the Federal or Provincial Government, including Hydro One, may, for the purposes of the public service, use any land or erect or use any building in any zone subject to the use or building being in compliance with the most restrictive regulations contained in such zone and the parking requirements of Section 6.1 for such use and subject to there being no outdoor storage of goods, materials or equipment in any yard abutting a Residential Zone. Any buildings erected or used in a Residential Zone under the provisions of this Section shall be designed so as not to intrude into the residential character of the area. This exemption for use in any zone, however, shall not apply to any land or building used by any transportation, communications, telephone or electrical utility company for executive or administrative offices, or retail purposes, or any land or building used by any local school board for secondary school purposes. (By-law 2006-174, S.6)

## 5.9

**REDUCTION IN REGULATIONS RESULTING FROM STREET WIDENING**

1. If the acquisition of land, by registration on title on or after February 11, 1985, to widen a street or to provide a corner visibility triangle results in non-compliance with regulations existing on the date of acquisition and respecting lot area, floor space ratio, lot width or yards, a building or use shall be deemed to comply with such regulations only in the circumstances which follows:

- a) where the building or use existed at the date of the acquisition;
- b) where a building or use is proposed to be developed by the same owner who conveyed the land for street widening or corner visibility triangle; or
- c) where a building or use is proposed to be developed in strict accordance with an approved site plan applied for by a previous owner, which required the conveyance of land for street widening or corner visibility triangle;

provided that:

- i) where the lot is rezoned after the acquisition of land for street widening or corner visibility triangle, no greater benefit shall be obtained than that which could be obtained based on the zoning in effect on the date of such acquisition; and
- ii) the provisions of this section shall not apply in circumstances where the conveyance of land for street widening or corner visibility triangle is a requirement of a subdivision of land approval.

(By-law 2003-163, S.16, [a],[b],[c],[d],[e]) (Amended: By-law 2010-097, S.11)

2. If the acquisition of land to widen a street or to provide a corner visibility triangle results in non-compliance with regulations not listed in 5.9.1 and existing on the date of acquisition, the non-compliance with those regulations shall be deemed to comply where the building or use legally existed on the date of the acquisition. (By-law 2015-068, S.5)

## 5.9A

**REGULATIONS FROM CORNER VISIBILITY TRIANGLE**

For the purposes of lot area, floor space ratio, lot width or yards, the corner visibility triangle shall be deemed to be part of the lot.



(By-law 2003-163, S.17) (Amended: By-law 2010-097, S.12)

5.10 **CONSTRUCTION USES**

Any part of a lot, other than a corner visibility triangle, may be used for temporary buildings associated with construction work occurring on such lot, provided that the building is located thereon only for the duration of construction work or as long as the building permit for construction is valid, whichever comes first. No temporary building intended for construction work purposes shall be used for human habitation.

5.10A **TEMPORARY SALES CENTRE**

A building or trailer used for a temporary sales centre for the purpose of selling dwelling units in a proposed development is permitted in the following zones: C-1 to C-8, D-1 to D-7, R-1 to R-9, CR-1 to CR-5 and MU-1 to MU-3, provided the following regulations are met:

- i) the building or trailer shall be removed after 3 years from the issuance of site plan approval or building permit, if applicable,
- ii) the building or trailer shall meet the most restrictive setbacks of the zone in which it is located,
- iii) parking is required at a rate of 1 space per 28 square metres of gross floor area which accommodates such use.

(By-law 2013-124, S.14)

5.11 **VISUAL BARRIER**

Where in any zone a visual barrier is required to be provided and maintained, such barrier shall act as a screen between uses and be constructed to a minimum height of 1.8 metres and shall consist of the following:

- a) a wall, fence; or
- b) trees or shrubs (provided however that there is a reserved width of planting that is appropriate for healthy plant growth so that the vegetation achieves a minimum height of 1.8 metres and is continuously unpierced within 3 years of planting); or
- c) earth berms; or
- d) any combination of the above.

(By-law 2003-163, S.18)

5.12 **NUMBER OF DWELLINGS PER LOT**

- .1 Unless otherwise provided for in this By-law, in any zone where a single detached dwelling, semi-detached dwelling or duplex dwelling is permitted, no more than one such dwelling shall be erected on a lot.  
(By-law 96-24, S.1)

- .2 On a lot or block against which a Part Lot Control Exemption By-law is registered, those parts on a reference plan which are intended to constitute a future lot shall be deemed to be a lot for the purposes of this section of the By-law, provided that such parts are in compliance with all applicable regulations of this By-law, in which case, one single detached dwelling, semi-detached dwelling or duplex dwelling shall be permitted on each future lot.  
(By-law 2003-163, S.19)
3. A maximum of ten (10) single detached dwellings, semi-detached dwellings or duplex dwellings may be permitted on a lot in any zone for model home purposes in accordance with the policy for model homes and the approval of the Chief Building Official.  
(By-law 2004-201, S.1)

5.13 **HOME BUSINESS** (By-law 94-183, S.9)

No person or persons shall conduct a home business except as permitted herein and in accordance with the regulations hereinafter set out:

.1 **Home Businesses permitted in Single Detached Dwellings and Semi-Detached Houses containing only one dwelling unit, and not on a lot containing an Additional Dwelling Unit (Detached):**

Academic Instruction  
 Artisan's Establishment (not including retail)  
 Canine and Feline Grooming  
 Health Office (not including physician, surgeon or dentist)  
 Office  
 Personal Service (not including the cleaning of apparel)  
 Repair Service  
 Tourist Home (to a maximum of two bedrooms)

(Amended: By-law 2021-040, S.4; By-law 2012-033, S.1; By-law 2013-124, S.15)

.2 **Regulations for Home Businesses in Single Detached Dwellings and Semi-Detached Houses containing only one dwelling unit, and not on a lot containing an Additional Dwelling Unit (Detached):**

- a) The home business shall be conducted by the person or persons resident in the dwelling unit, may include one non-resident employee and shall not attract any additional employees directly to the lot containing the home business.
- b) The home business shall be conducted wholly within an enclosed building.
- c) Only one home business shall be permitted for each dwelling unit, except in the case in which one home business is conducted so as not to attract customers, clients or additional employees directly to the lot containing the home business, in which case a maximum of two home businesses shall be permitted.

- d) The home business shall not be permitted in a dwelling containing lodging units.
- e) No outdoor storage shall be permitted.
- f) No storage or display of goods shall be visible from the street.
- g) An area not exceeding 25 per cent of the gross floor area of the dwelling may be used for a home business and in no case shall the gross floor area which accommodates the home business exceed 50.0 square metres.
- h) The building containing the home business shall comply with all regulations for the dwelling type in the zone in which it is located.
- i) Off-street parking shall be provided at a rate of one space for each dwelling unit, one space for the non-resident employee (if any) and one space for each home business, except as follows:
  - i) an office conducted in such a manner so as not to attract customers, clients or employees directly to the dwelling unit; in which case, there shall be provided only one space for each dwelling unit; and (By-law 2005-106, S.5) (Housekeeping Amendment)
  - ii) a tourist home, in which case there shall be provided one space for each dwelling unit, one space for any non-resident employee and one space for each bedroom used to accommodate tourists.
- j) If the home business does not have a non-resident employee, then the required parking space for the home business and dwelling unit may be arranged in tandem.
- k) Not more than one parking space required for or associated with a home business may be located in the rear yard, except in the case of a corner lot, a through lot or a lot abutting a lane.
- l) The home business shall be conducted so as not to attract more than 3 customers or clients to the home at any one time.
- m) The home business shall not create noise, vibration, fumes, odour, dust, glare or radiation which is evident outside of the building.
- n) No repair of parts or accessories for motor vehicles or major recreational equipment shall be permitted.
- o) No repair of equipment having a combustion engine shall be permitted; nor shall any such equipment be used in the process of conducting any home business.
- p) No repair service shall be conducted in a detached accessory building, except for the purpose of indoor storage.
- q) A health office shall not have more than one health professional in attendance at any one time.
- r) The following regulations apply to a Canine and Feline Grooming home business:

- i) A maximum of two dogs and two cats are allowed on the premises at any one time, excluding pets residing at the same address as the home business, as evidenced by a valid pet license issued pursuant to the Corporation's by-law pertaining to same in existence at the time.
- ii) No veterinary services shall be provided on the premises.
- iii) No breeding, boarding or overnight accommodation of dogs or cats for grooming shall be permitted on the premises, excluding pets residing at the same address as the home business, as evidenced by a valid pet license issued pursuant to the Corporation's by-law pertaining to same in existence at the time.
- iv) Non-resident dogs and cats that are on the premises for the purpose of grooming shall have a maximum stay of three (3) hours at any one time, on any given day, during regular operating hours.
- v) All pet related commercial uses and services, including any associated retail, are prohibited, except for Canine and Feline Grooming.
- vi) Permitted only in a single-detached dwelling.

(Amended: By-law 2021-040, S.5; By-law 2003-163, S.20; By-law 2012-033, S.1)

**.3 Home Businesses permitted in Duplex Dwellings, Multiple Dwellings, Semi-Detached Houses containing two dwelling units and Street Townhouse Dwellings, or on any lot containing an Additional Dwelling Unit (Detached):**

Academic Instruction

Artisan's Establishment (not including retail or instruction)

Office

(Amended: By-law 2021-040, S.6; By-law 2013-124, S.16)

**.4 Regulations for Home Businesses in Duplex Dwellings, Multiple Dwellings, Semi-Detached Houses containing two dwelling units and Street Townhouse Dwellings, or on any lot containing an Additional Dwelling Unit (Detached):**

- a) The home business shall only be conducted by the person or persons resident in the dwelling unit.
- b) The home business shall be conducted wholly within an enclosed building.
- c) No outdoor storage shall be permitted.
- d) No storage or display of goods shall be visible from the street.
- e) The home business shall not attract customers, clients or employees directly to the lot containing the home business, except for academic instruction to one customer or client at a time.

- f) Only one home business shall be permitted for each dwelling unit and the gross floor area of such use shall not exceed 15.0 square metres.
- g) The building containing the home business shall comply with all applicable regulations for the dwelling type in the zone in which it is located.
- h) The home business shall not create noise, vibration, fumes, odour, dust, glare or radiation which is evident outside of the building.
- a) No combustion engine shall be used in the process of conducting any home business.

(Amended: By-law 2021-040, S.7)

#### 5.14 **REGULATION FOR CONSOLIDATED LOT DEVELOPMENT**

Where two or more abutting lots under one identical ownership are consolidated for the purpose of development, the internal lot lines of the original lots shall not be construed to be lot lines for the purposes of any zoning regulations provided that all applicable regulations of this by-law relative to the whole lot and its external lot lines are observed. (By-law 95-109, S.1)

#### 5.15 **EXISTING USES**

(Amended: By-law 2012-034, S.17)

##### .1 **Commercial, Industrial, Residential, Institutional, Commercial-Residential and Mixed Use Zones**

- a) Notwithstanding sections 5.23, 5.24, 7 to 13, 19 to 26, 31 to 33, 35 to 47, 53 to 55, and any applicable Special Provision contained in Appendices "C" and "D" of this by-law, the location of any building that was constructed on or before October 11, 1994 and the lot upon which the building was constructed, shall be deemed to comply with the following current regulations for the use existing on or before October 11, 1994 provided that the use is permitted by this by-law:

front yard;  
 side yard;  
 side yard abutting a street;  
 rear yard;  
 yard abutting a residentially zoned property;  
 lot coverage;  
 building height;  
 floor space ratio;  
 lot width;  
 lot area, provided that the lot area is no less than 75 percent of that otherwise required by this By-law;  
 setback from an arterial road; and  
 setback from a railway.

(Amended: By-law 2013-124, S.17)

- b) Subclause a) shall also apply to any satellite dish, air conditioning unit, heat pump unit, swimming pool, patio, porch or deck existing on or before October 11, 1994 except where located within a corner visibility triangle as per Section 5.3 of this by-law or driveway visibility triangle. (Amended: By-law 2012-034, S.18)
- c) Subclause a) above shall also apply to any currently permitted use that did not exist on October 11, 1994, except where the regulations for the use are more stringent than the use that existed on October 11, 1994 and/or changes to the total building floor area are proposed. Setbacks from arterial roads and railways shall not be deemed to comply for any residential dwelling unit, lodging house, residential care facility or hospital that did not exist on October 11, 1994. Introduction of any of the above uses shall be subject to the regulations contained in Section 5.23 and 5.24 of the By-law, respectively.
- d) Sub clause a) above shall also be deemed to comply with current off-street parking regulations where the number of legally established parking spaces provided is equal or less than the parking required for the previous legally established use and provided that there has been no changes to the total building area.  
(By-law 2012-034, S.19) (Amended: By-law 2013-124, S.18)

(By-law 2010-154) (Housekeeping Amendment)

## **.2 Downtown Zones**

- a) Notwithstanding this by-law, any developed lot within any downtown zone of this by-law and the size, location or design of any building thereon, which existed on or before May 1, 1992, shall be deemed to comply with the regulations for setback, front yard, side yard, rear yard, other yard, building height, building elevation, facade height, gross floor area, building floor area, floor space ratio, facade openings, and lot width, relative only to the use which existed on May 1, 1992 and is permitted by this by-law.
- b) Subclause a) above shall also apply to those regulations of a use which did not exist on May 1, 1992, but is permitted by this by-law, which regulations are the same as, or less stringent than, the regulations of the use which existed on May 1, 1992.  
(By-law 92-232, S.4[a])

## **5.16 TWO OR MORE USES ON A LOT**

Unless otherwise provided for in this By-law, where two or more uses are located on a lot and the uses are governed by different regulations, the most restrictive regulations shall apply.  
(By-law 92-58, S.4)

## **5.17 LOCATION OF GROUP HOMES**

Notwithstanding anything else in this By-law, only one group home shall be permitted on a lot. No building or part thereof shall be used for a correctional group home on a lot situated within 400 metres of another lot which either a group home or correctional group home is located, such minimum distance to be measured from the closest point of the lot lines associated with each lot. No building or part thereof shall be used for a correctional group home on a lot that is situated

within 100 metres of the municipal limit of the City of Kitchener, such minimum distance to be measured from the closest point of the lot line associated with such lot and the municipal limit. (By-law 92-58, S.4) (Amended: By-law 2012-140, S.4) (Amended: By-law 2016-138, S.6)

#### 5.17A **LOCATION OF LODGING HOUSES**

Notwithstanding anything else in this By-law, only one Lodging House shall be permitted on a lot. No building or part thereof shall be used for a Lodging House on a lot that is situated within 400 metres of another lot on which a Lodging House is located, such minimum distance to be measured from the closest point of the lot lines associated with each lot. No building or part thereof shall be used for a Lodging House on a lot that is situated within 100 metres of the municipal limit of the City of Kitchener, such minimum distance to be measured from the closest point of the lot line associated with such lot and the municipal limit. (By-law 2006-174, S.8)

#### 5.18 **DEVELOPMENT WITHIN THE FLOODPLAIN** (By-law 94-1, S.6[f])

Notwithstanding anything else in this By-law, the following uses shall not be permitted to locate within the Regulatory Flood Plain (which includes lands zoned E-1 or P-3 or lands shown in Appendix "A" as affected by special regulation provision 1R):

- i) A hospital, educational establishment (elementary), day care facility and residential care facility for the elderly or persons having mental or physical disabilities.
- ii) Truck transport terminal for, or retailing, manufacturing, warehousing, outdoor storage or accessory storage of chemical, hazardous or toxic material, including paint. (By-law 94-183, S.11)

#### 5.19 **BONUS REGULATIONS** (By-law 92-232, S.4[b])

A building may exceed the maximum floor space ratio for the zone in which it is located subject to the bonus value regulations for such zone and to the further condition that the facilities or matters, namely, residential floor area, amenity area or heritage conservation, are provided in accordance with the regulations hereinafter set out. No facilities or matters existing on the date of the passing of By-law Number 92-232 shall be included in the calculation of bonus floor area.

##### .1 **Bonus Regulations for Residential Floor Area**

- a) Bonus Floor area shall be given in return for the provision of "Residential Floor Area" which:
  - i) is exclusively devoted to residential use;
  - ii) consists of not less than 400 square metres of gross floor area; and,
  - iii) is constructed after the passing of By-law Number 92-232.
- b) Bonus floor area shall be calculated by multiplying the residential floor area provided on the lot by the residential bonus value contained in the regulations of the applicable zoning category. For example, if the residential bonus value is 4, each

square metre of residential floor area would permit 4 square metres of additional floor area.

- c) In no instance shall the bonusing value be applied to residential floor area in excess of the maximum building floor area permitted by the applicable zoning category. For example, if the maximum Floor Space Ratio in the applicable zoning category is 2.0, the residential bonus value shall not apply to any square metre of residential floor area in excess of the 2.0 FSR.
- d) The bonus floor area which may be obtained in return for the provision of residential floor area shall not exceed 20,000 square metres.
- e) The bonus floor area which may be obtained in return for the provision of residential floor area shall be based on floor space used for residential use only. Where residential floor area is not permitted, said floor area shall not be included for the purpose of calculating bonus residential floor area. For example, if residential is not permitted on the ground floor of a building, the ground floor area shall not be included in residential floor area bonus calculation.

(Amended: By-law 2013-138, S.20)

## **.2 Bonus Regulations for Amenity Areas**

- a) Bonus floor area shall be given in return for the provision of an "Amenity Area" which:
  - i) is not less than 40.0 square metres in area and not less than 3.0 metres across at any point;
  - ii) may be located indoors on the ground floor or outdoors at grade;
  - iii) is visible, and accessible for not less than 54 hours per week, to the general public and devoted to their recreation or leisure;
  - iv) does not include any Outdoor Area required to be provided by this by-law; and,
  - v) includes permanent features from at least two of the following three categories:
    1. Benches, tables, play structures or similar furniture, equipment or structures for human activity such as resting, eating or playing.
    2. Trees, shrubs, gardens or similar landscaping features providing relief to the built environment.
    3. Sculptures, fountains, murals, monuments, or similar art or cultural features for public appreciation.
- b) Bonus floor area shall be calculated by multiplying the area of the amenity area provided on the lot by the amenity area bonus value contained in the regulations of the applicable zoning category and adding 1 square metre for each \$25 of the total



value, as of the date of the bonus agreement, of all permanent features provided as set out in subclause a)v) above, the value of items 1. and 2. to be determined by an accredited landscape architect and the value of the item 3. to be determined by an accredited art appraiser. For example, if the amenity bonus value is 10, the amenity area is 40 square metres and the permanent features value \$10,000 then 800 square metres of additional floor area would be permitted.

- c) The bonus floor area which may be obtained in return for the provision of an amenity area shall not exceed 20,000 square metres.

### **.3 Bonus Regulations for Heritage Conservation**

- a) Bonus floor area shall be given in return for a "heritage building" or "heritage facade" which is conserved on a lot that is designated under the Ontario Heritage Act and for which a heritage easement is registered to ensure the conservation, protection and preservation thereof.
- b) Bonus floor area for a heritage building shall be calculated by multiplying its gross floor area by the heritage bonus value contained in the regulations of the applicable zoning category. For example, if the heritage bonus value is 2, each square metre of its gross floor area would permit 2 square metres of additional floor area.
- c) Bonus floor area for a heritage facade shall be calculated by multiplying its vertical area by the heritage bonus value contained in the regulations of the applicable zoning category. For example, if the heritage bonus value is 7 each square metre of its vertical area would permit 7 square metres of additional floor area.
- d) The bonus floor area for one or more heritage facades shall not exceed 75 per cent of the bonus floor area which could have been obtained for the whole building had it been conserved as a heritage building.
- e) The bonus floor area which may be obtained in return for a heritage building or heritage facade shall not exceed 20,000 square metres.

### **.4 Transfer of Bonus Floor Area**

Bonus floor area permitted by clause 3 of Section 5.19 but not built on the lot on which it is obtained, may be transferred to one or more lots within the same zone or to one or more lots within a D-1 or D-2 Zone. (Amended: By-law 2013-138, S.21)

### **.5 Agreements**

- a) The owner of the lot upon which facilities or matters are to be provided in return for an increase in density of development shall enter into a bonus agreement with the City which contains the following:
  - i) the zoning category, floor space ratio, lot area and quantity of building floor area permitted before bonusing;
  - ii) a covenant to provide a specified quantity of the facilities or matters set out in Section 5.19, namely, residential floor area, amenity area or heritage conservation, and performance security therefor;

- iii) a covenant to maintain such facilities or matters in accordance with this by-law and in a good state of repair, free of rubbish and obstructions;
  - iv) a covenant to indemnify the City and provide insurance respecting the facilities or matters to be provided;
  - v) the quantity of bonus floor area permitted;
  - vi) a provision requiring the approval of the City to transfer all or any part of bonus floor area, permitted but not built on the lot, to another lot;
  - vii) a covenant to register the agreement on the lot; and,
  - viii) a description of the lands upon which the facilities or matters are to be provided.
- b) Where density is transferred, the lot owner who transfers bonus floor area ("the donor") and each lot owner to whom bonus floor area is transferred ("the donee") shall enter into a bonus transfer agreement with the City which contains the following:
- i) particulars of the bonus agreement;
  - ii) the zoning category, floor space ratio, lot area and quantity of building floor area permitted before bonusing, for the lot of the donee;
  - iii) the quantity of bonus floor area being transferred;
  - iv) a provision requiring the approval of the City to transfer all or any part of bonus floor area, permitted but not built on the lot, to another lot;
  - v) a covenant to register the agreement on the lot of the donee; and,
  - vi) a description of the lot of the donee.

#### .6 **Building Permits**

No building permits shall be issued for bonus floor area until:

- a) A bonus agreement is entered into and registered against the lot on which the facilities or matters are to be provided and, where density is transferred.
- b) A bonus transfer agreement is entered into and registered against the donor's lot and against each lot of a donee.

#### 5.20 **MAINTENANCE EASEMENTS AND EAVE ENCROACHMENTS FOR DWELLINGS AND ACCESSORY BUILDINGS HAVING A 0 METRE SIDEYARD**

The development of dwellings and accessory buildings in excess of 9.3 square metres with 0 to 0.2 metre sideyards which do not form part of a common wall with a building on an adjacent lot, shall be permitted provided that a maximum encroachment of 0.45 metres into abutting lands is

provided for the projection of eaves and a 1.5 metre easement is granted by the owner of the subject abutting lands for the maintenance of walls, eaves and real property. (By-law 94-1, S.6[g]) (Amended: By-law 2016-138, S.7)

## 5.21 **STANDARD CONDOMINIUMS**

Internal lot lines created by:

- a) a registration of a plan of condominium; or
- b) a plan or plans of condominium registered on all or a portion of a lot which is part of a comprehensively planned development subject to a Development Agreement pursuant to Section 41 of the Planning Act;

shall not be construed to be lot lines for the purposes of zoning regulations provided that all applicable regulations of this by-law relative to the whole lot and its external lot lines, existing prior to any condominium plan registration are strictly observed. (By-law 99-55, S.1) (Amended: By-law 2007-231, S.5)

### 5.21A **Vacant Land Condominiums**

More than one single detached, semi-detached, duplex or street townhouse dwelling shall be permitted on a lot provided that each dwelling has direct access to an internal private driveway or road that is a common element in a registered Condominium connecting to a public street and that each dwelling is located on a 'unit' in a Vacant Land Condominium. For purposes of this regulation, the front lot line for each Unit in a Vacant Land Condominium shall be deemed to be that lot line abutting the internal driveway portion of the common element, and the dwelling on such a Unit shall comply with all applicable zoning regulations, including but not limited to setbacks, lot area, lot width and parking. (By-law 2007-231, S.6)

### 5.21B **Common Element Condominiums**

Notwithstanding Section 5.2 of this by-law, single detached, semi-detached, duplex or street townhouse dwellings shall be permitted on lots without frontage on a public street provided that all such dwellings are located on Parcels of Tied Lands (POTL's) to a Common Elements Condominium (CEC) consisting of at least a private driveway connecting to a public street.

Where lands have been comprehensively planned and are subject to an approved Site Plan and a Development Agreement pursuant to Section 41 of the Planning Act, any zoning deficiencies resulting from the creation of the POTL's, shall be deemed to conform to the regulations of the by-law, provided that:

- a) all applicable regulations of the by-law relative to the whole lot and its external lot lines, existing prior to any condominium plan registration are complied with, and
- b) each dwelling unit shall have an unobstructed access at grade or ground floor level, having a minimum width of 0.9 metres, from the front yard to the rear yard of the lot either by:
  - i) direct access on the lot without passing through any portion of the dwelling unit; or,

- ii) direct access through the dwelling unit without passing through a living or family room, dining room, kitchen, bathroom, bedroom, or recreation room or any hallway that is not separated by a door to any such room; or,
- iii) access over adjacent lands which, if the lands are not owned by the City of Kitchener or the Regional Municipality of Waterloo, are secured by a registered easement or are a common element of the condominium.

Any additions or alterations to the dwelling; accessory structures such as sheds; and yard projections such as porches, balconies, decks, and pools, added subsequent to the registration of the condominium, which are not shown on the approved Site Plan must comply with the applicable zoning regulations for the type of dwelling contained within the POTL. For the purposes of this regulation, the front lot line shall be deemed to be that lot line abutting the internal driveway or primary internal walkway. (By-law 2008-167, S.1)

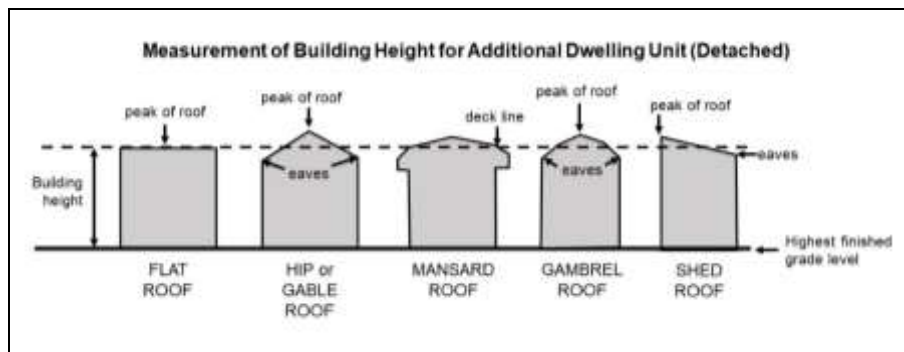
## 5.22

**ADDITIONAL DWELLING UNIT (DETACHED)**

One Additional Dwelling Unit (Detached) shall only be permitted in association with a Single Detached Dwelling, Duplex Dwelling, Semi-Detached House, Semi-Detached Duplex House, or Street Townhouse Dwelling. The following regulations shall apply for an Additional Dwelling Unit (Detached):

- a) for the purposes of Section 5.22, the area that is designed to be a separate lot for a Street Townhouse Dwelling or Semi-Detached Dwelling shall be considered to be a lot;
- b) the minimum lot area shall be 395 square metres;
- c) the minimum lot width shall be 13.1 metres;
- d) no more than one Additional Dwelling Unit (Detached) is permitted on a lot;
- e) the maximum number of Dwelling Units on a lot shall be three;
- f) an Additional Dwelling Unit (Detached) shall not be severed from the lot containing the Single Detached Dwelling, Duplex Dwelling, Semi-Detached House, Semi-Detached Duplex House, or Street Townhouse Dwelling;
- g) the Additional Dwelling Unit (Detached) shall be connected to full municipal services;
- h) the total building floor area of the Additional Dwelling Unit (Detached) shall not exceed 50 percent of the building floor area of the Single Detached Dwelling, Duplex Dwelling, Semi-Detached House, Semi-Detached Duplex House, or Street Townhouse Dwelling on the same lot, or 80 square metres, whichever is less;
- i) on a lot containing an Additional Dwelling Unit (Detached), the principal building shall comply with the following:
  - i) where the principal building is a Single Detached Dwelling or Duplex Dwelling, the minimum side yard setback on each side of the principal dwelling shall be 1.2 metres;

- ii) where the principal building is a Semi-Detached House, Semi-Detached Duplex House, or Street Townhouse Dwelling, the minimum side yard setback of the principal dwelling unit shall be 2.5 metres on one side;
- j) a building containing an Additional Dwelling Unit (Detached) shall have a minimum side yard and minimum rear yard of 0.6 metres;
- k) an Additional Dwelling Unit (Detached) shall not be located in the front yard or side yard abutting a street of the principal dwelling;
- l) For Additional Dwelling Unit (Detached), the maximum building height shall be:
  - a. 4.5 metres for a hip, gable, shed, or gambrel roof, measured to the mid point between the eaves and the peak of the roof, excluding the eaves of any projections;
  - b. 4.5 metres for a mansard roof, measured to the deck line;
  - c. 3 metres for a flat roof, measured to the peak of the roof;



- m) For a shed roof where the peak of the roof is more than 4.5 metres from highest finished grade level, the highest exterior wall shall not face a rear or side lot line closer than 4.5 metres, except where the lot line is a street line or lane;
- n) the maximum combined lot coverage of all accessory buildings inclusive of an Additional Dwelling Unit (Detached) shall be 15 percent; and,
- o) an unobstructed walkway that is a minimum 1.1 metres in width shall be provided from a street or lane to the Additional Dwelling Unit (Detached). The walkway shall not be located within a required parking space.

(Amended: By-law 2021-040, S.8)

## 5.23

### **SETBACKS FROM RAILWAYS**

All new dwelling units, new lodging houses, new residential care facilities and new hospitals on lots abutting a railway right-of-way shall be subject to the following regulations:

(Amended: By-law 2012-034, S.20)

- a) A minimum setback of 30.0 metres from the lot line of the railway right-of-way for a Principal or Secondary Main Line shall be required together with a berm or a combination berm and fence along such lot line.

- b) A minimum setback of 15.0 metres from the lot line of the railway right-of-way for a Principal or Secondary Branch Line shall be required together with a berm or combination berm and fence along such lot line.
- c) A minimum setback of 15.0 metres from the lot line of the railway right-of-way for a Tertiary Branch Line shall be required.
- d) The definition and classification of each railway right-of-way shall be as determined by the respective railway company.
- e) Where a railway right-of-way has been declared redundant by the respective railway company, the requirements of clauses a), b), or c) shall not apply.
- f) The requirements of clauses a), b), or c) shall not apply to additions or alterations to buildings existing on January 24, 1994.

(By-law 94-1, S.6[g])

**5.24 SETBACKS FROM ARTERIAL ROADS**

The minimum setback for any residential building or part thereof, located on a lot which is abutting an arterial road as defined and classified in the City's Official Plan, shall be 12.0 metres from the street line.

Notwithstanding the foregoing, for multiple dwellings or multiple dwelling sites, or any residential building having frontage on such arterial road, the setback requirements of the applicable zone shall apply. Any such building located less than 12.0 metres from an arterial road shall have a central air conditioning system, double-glazed windows and EW1 exterior wall type pursuant to the Supplementary Standard SB-3 of the Ontario Building Code or equivalent material as approved by the City's Chief Building Official.

(Amended: By-law 2012-034, S.21) (Amended: By-law 2013-138, S.22)

**5.25 DUPLEXES AND SECOND DWELLING UNITS IN SEMI-DETACHED HOUSES AND TOWNHOUSES**

Notwithstanding anything else in this by-law a second dwelling unit in a semi-detached house or townhouse, or a duplex shall only be permitted on lots serviced by a Municipal sewage system.

(By-law 94-183, S.12)

**5.26 DRIVE-THROUGH FACILITIES CONTAINING INTERCOM ORDER STATIONS**

All commercial uses having a drive-through facility which contains an intercom order station shall comply with the Ministry of the Environment's noise levels for stationary sources of noise. Where a drive-through facility contains an intercom order station and is situated within 60 metres of a Residential Zone, or an Institutional Zone except for lands fully developed for an Arena, Auditorium, Health Clinic, Health Office, Medical Laboratory, Social Services Establishment, Stadium, or Veterinary Services, the drive-through facility shall not be permitted unless:

- a) a noise study certified by a professional engineer demonstrates that noise levels will not exceed the maximum levels specified by the Ministry of the Environment in publications NPC-205 and NPC-206 as amended from time to time;
- b) a noise study certified by a professional engineer demonstrates that noise levels will not exceed the maximum levels set out in clause a) above by the employment of measures to mitigate noise and such measures are employed prior to occupancy of the drive-through facility; or
- c) a noise wall certified by a professional engineer is installed prior to occupancy of the drive-through facility which will ensure that noise levels do not exceed the maximum levels set out in clause a) above.

(By-law 2000-80, S.2) (Drive-through Facilities) (Amended: By-law 2010-097, S.13)

**5.27 PRIVATE WELLS****.1 PROHIBITION**

Notwithstanding anything else in this By-law, a private well shall not be permitted as a primary or accessory structure on any lands within the limits of the City of Kitchener where a municipal water distribution system is available within the road right-of-way abutting the property. This regulation shall not apply to a:

- i) well which legally existed prior to October 1, 2003;
- ii) well which is installed for the purposes of environmental site remediation, water monitoring, or site de-watering; or
- iii) property used for non-residential purposes which, prior to October 1, 2003, relies upon a legally existing private well for purposes other than human consumption such as irrigation, cooling, or manufacturing purposes.  
(By-law 2003-11, S.1)

**.2 ABANDONMENT**

Any well which is not being used shall be decommissioned in accordance with Regulation 903 of the Ontario Water Resources Act, and any future amendments thereto.  
(By-law 2003-10, S.1)

**5.28 ACCESSORY BIO-SOLID STORAGE**

An accessory bio-solid storage facility shall be used only to spread bio-solids on a farm field containing said facility and no other farms off-site, shall be constructed of solid concrete material; and:

- i) shall not be located within 300 metres of a residence on an adjacent lot, or any building used for recreational, institutional, religious or educational purposes;
- ii) shall not be located within 600 metres of an area zoned residential; and,
- iii) no residence shall be constructed within 300 metres of an accessory bio-solid storage facility.  
(By-law 2007-231, S.8)

**5.29 SERVICE OR REPAIR OF MOTOR VEHICLES, MAJOR RECREATIONAL EQUIPMENT AND PARTS AND ACCESSORIES FOR MOTOR VEHICLES AND MAJOR RECREATIONAL EQUIPMENT**

Any portion of a building used for the service or repair of motor vehicles, major recreational equipment and parts and accessories for motor vehicles and major recreational equipment shall have a minimum setback of 14 metres from any lot line of the property which abuts a Residential or Institutional zone; unless such building or portion thereof is constructed without an opening, such as a vent, door or window.  
(By-law 2010-097, S.14)



**5.30 RESIDENTIAL USES**

Any reference to “residential zone” or “residentially zoned” lands in this by-law shall mean the Residential One (R-1) to Residential Nine (R-9), inclusive, zones only. (By-law 2013-124, S.19)

**5.31 FOOD CARTS**

A portable food cart shall be permitted in all zones, except Residential zones, provided that it:

- i) is towed or manually operated and is used to carry food and condiments,
- ii) is licensed by the City’s Licensing Services as a Class A Refreshment Vehicle,
- iii) does not occupy any drive aisle or required parking space; and,
- iv) is not located in any driveway or corner visibility triangle.

(By-law 2016-138, S.8)

**5.32 SHIPPING CONTAINERS**

- .1 A shipping container shall only be temporarily permitted in the driveway of a residentially zoned property for a period not exceeding thirty (30) days in any given year, provided that the shipping container is located wholly within a lot and must be set back a minimum of 0.5 metres from the front lot line. (By-law 2016-138, S.9)