

SECTION 4 – General Regulations

4.1 ACCESSORY BUILDINGS AND STRUCTURES

- a) Unless otherwise provided for in this By-law, no *accessory building* or *structure* shall be used for human habitation.
- b) *Accessory buildings* or *structures* to *dwelling units* having a maximum *gross floor area* of 15 square metres or less and a maximum *height* of 3 metres are permitted within a required *rear yard* or a required *interior side yard*.
- c) *Accessory buildings* and *structures* to *dwelling units* with a *building height* greater than 3 metres shall be located a minimum of 0.6 metres from an *interior side lot line* and *rear lot line*.
- d) For *accessory buildings* to *single detached dwellings*, *semi-detached dwellings*, and *street townhouse dwellings*, with or without an *accessory dwelling unit (attached)* or *accessory dwelling unit (detached)*, and to *multiple dwellings*, the maximum height of the underside of any fascia shall be 3 metres, the maximum *building height* shall be 5.5 metres, and the maximum *lot coverage* shall be 15 percent.
- e) *Accessory buildings* or *structures* to *dwelling units* shall not be located in a *front yard* or *exterior side yard*.

4.2 ACCESSORY USES

Where this By-law provides that land may be *used* or a *building* or *structure* may be erected and *used* for a permitted *use*, that *use* shall include any *accessory use* provided that the *accessory use* is located within the same *premises*.

4.3 INCLUSIONARY ZONING

- a) For the purposes of this Section 4.3,

Affordable Unit - means a *dwelling unit* where the maximum rent is in accordance with subsections 4.3 e) and is occupied by an *eligible tenant* in accordance with subsection 4.3 d) of this By-law.

Complete Application - means an application that contains sufficient particulars and information to allow it to be processed and approved. An application that is incomplete becomes a complete application on the date that the required particulars and information are provided to the *City*.

Development - means the construction, erection or placing of one or more *buildings* or structures on land or the making of an addition or alteration to a

building or structure that has the effect of substantially increasing the size or usability thereof.

Eligible Tenant(s) - means a tenant is eligible to occupy *affordable units* in accordance with subsection 4.3 f)

Gross Leasable Residential Floor Area - means the aggregate horizontal area of *dwelling units* in a building measured from the exterior faces of the exterior walls of all *storeys* of a *building*. For greater clarity, Gross Leasable Residential Floor Area does not include common or parking areas or storage lockers.

Non-profit housing provider - means

- i) A corporation to which the Not-for-Profit Corporations Act, 2010 applies that is in good standing under that Act and whose primary objective is to provide housing;
- ii) A corporation without share capital to which the Canada Business Corporations Act applies, that is in good standing under that Act and whose primary objective is to provide housing;
- iii) A non-profit housing co-operative that is in good standing under the Co-operative Corporations Act; or
- iv) An organization that is a registered charity within the meaning of the Income Tax Act (Canada) or a non-profit organization exempt from tax under paragraph 149(1)(l) of that Act, and whose land is owned by the organization, all or part of which is to be used as affordable housing.

Purpose-Built Rental Housing - means all or part of a *multiple dwelling* or *mixed use building* where *dwelling units* are not a unit within a registered plan of condominium per section 2 of the Condominium Act, and which is intended for use as rented residential premises."

Regional Market Area -means the real estate market within the geographical boundary of the Region of Waterloo.

- b) The following regulations shall apply to the following Protected Major Transit Station Areas identified on Appendix F to this By-law:
 - Grand River Hospital;
 - Central Station;
 - Victoria Park/Kitchener City Hall;
 - Queen/Frederick;
 - Kitchener Market;
 - Borden; and
 - Mill.

- c) Section 4.3 of this By-law does not apply to the following developments:
- i) *Existing buildings* except where any addition or change in use would result in 50 or more *new dwelling units*;
 - ii) Development that would add fewer than 50 *dwelling units* to a *lot*;
 - iii) Development where a non-profit housing provider has an interest that is greater than 51 per cent;
 - iv) Development that, on or before the effective date of the zoning by-law amendment bringing this section 4.3 Inclusionary Zoning provisions into this By-law, is the subject of a complete application for:
 - a. A plan of subdivision under section 51 of the Planning Act;
 - b. A description or an amendment to a description under section 9 of the Condominium Act;
 - c. Building permit; and/or
 - d. Site plan control under section 41 of the Planning Act;
 - v) Development that is exempt in accordance with the Planning Act and associated regulations;
 - vi) *Large Residential Care Facility*;
 - vii) *Lodging House*;
 - viii) *Group Home*
 - ix) *Hospice*;
 - x) A student residence owned and/or operated by a *post-secondary school*; or
 - xi) The portion of any *development* that has received a 'shell' building permit prior to January 1, 2025.
- d) A percentage of *gross leasable residential floor area* shall be provided as *affordable units* in accordance with Table 4-1.

Table 4-1: Inclusionary Zoning Set-aside Requirements

Market Area	Protected Major Transit Station Area	Minimum Percentage of Gross Leasable Residential Floor Area to be provided for affordable units
Prime	<ul style="list-style-type: none"> • Central Station • Victoria Park/Kitchener City Hall • Queen/Frederick 	2 %

Established	<ul style="list-style-type: none"> • Grand River Hospital • Kitchener Market • Borden • Mill 	1 %
Emerging	<ul style="list-style-type: none"> • Block Line • Fairway • Sportsworld 	0%

(The City intends to amend the zoning by-law periodically to adjust the rates in this table up to 5% by the year 2031 and according to market conditions as outlined in Official Plan Table 3 and policy 4.C.1.56.)

- e) The maximum rent that can be charged for *affordable units* will be determined annually by the *City*, in consultation with the *Region* and according to the following definition:
- i) Within *buildings* that are not purpose-built rental housing, the lesser of average market rent for the regional market area according to the number of bedrooms; or 30% of the 60th percentile household income for renter households for the regional market area; and
 - ii) Within purpose-built rental housing, the greater of the figure calculated in accordance with subsection 4.3 e) i) above or 30% of median renter household income for regional market area, as published from time to time by Canada Mortgage and Housing Corporation.
- f) Tenants of *affordable units* shall be pre-approved by the *City* in consultation with the *Region* and have a maximum household income of 3.5 times the unit's rent at the time the tenant first occupies the unit.
- g) *Affordable units* shall be similar to market units in terms of mix, type, size, and quality as further detailed in the agreements described in section 4.3 i).
- h) *Affordable units* shall not exceed the maximum rent set out in subsection 4.3 e) and will be provided to *eligible tenants* in accordance with subsection 4.3 f) for a minimum of 25 years after the date the unit is first occupied.
- i) Inclusionary Zoning requirements in Section 4.3 and related matters outlined in the *City's* Official Plan and Planning Act shall be secured by one or more legal agreements with the *City*, owner, and owner of offsite units if applicable, to the satisfaction of the *City* Solicitor, and registered on title of the lands.

(By-law 2024-068, S.1 – March 18, 2024)

4.4 **CONDOMINIUMS**

4.4.1 **Standard Condominiums**

- a) Internal *lot lines* created by:
- i) A registration of a plan of condominium; or

- ii) 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.

- b) Where a unit boundary extends beyond a *building* to a private amenity area not abutting a common element, each private amenity area shall have an unobstructed access at *grade* or *ground floor* level, having a minimum width of 0.9 metres from a common element, either by:
 - i) Direct access within the unit boundary without passing through any portion of the *dwelling unit*;
 - ii) Direct access through the *dwelling unit* without passing through a living or family room, dining room, kitchen, bathroom, bedroom, recreation room, or any hallway that is not separated by a door to any such room; or,
 - iii) Access over adjacent lands that, if the lands are not owned by the *City* or the *Region*, are secured through the declaration or common element of the condominium.

4.4.2 Vacant Land Condominiums

Despite Section 4.6, more than one *single detached dwelling*, *semi-detached dwelling*, or *street townhouse dwelling* shall be permitted on a *lot* provided that each has direct access to a *street* or an internal private *drive aisle* or road that is a common element in a registered Condominium connecting to a *street* and 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 private *drive aisle* or road portion of the common element, or the *lot line* abutting a *street* wherever the *driveway* access is, and the *single detached dwelling*, *semi-detached dwelling*, or *street townhouse dwelling* shall comply with all applicable zoning regulations.

4.4.3 Common Element Condominiums

Despite Section 0, *single detached dwelling*, *semi-detached dwelling*, or *street townhouse dwellings* shall be permitted on *lots* without frontage on a *street* provided that they are located on *parcels of tied lands* to a Common Element Condominium consisting of at least a private *driveway* connecting to a *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 *parcels of tied lands*, shall be deemed to comply with 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 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*;
 - ii) Direct access through the *dwelling unit* without passing through a living or family room, dining room, kitchen, bathroom, bedroom, recreation room, or any hallway that is not separated by a door to any such room; or,
 - iii) Access over adjacent lands that, if the lands are not owned by the *City* or the *Region*, are secured by an easement or are a common element of the condominium.

Any additions or alterations to the *dwelling unit*, *accessory buildings*, *yard* projections, and *driveways* added subsequent to the registration of the condominium, which are not shown on the approved site plan, must comply with the applicable zoning regulations for the *single detached dwellings*, *semi-detached dwellings*, or *street townhouse dwellings* contained within the *parcels of tied land*. For the purposes of this regulation, the *front lot line* shall be deemed to be the shortest *lot line* abutting a *street*, internal *driveway*, or internal walkway which provides primary access to the *dwelling unit*.

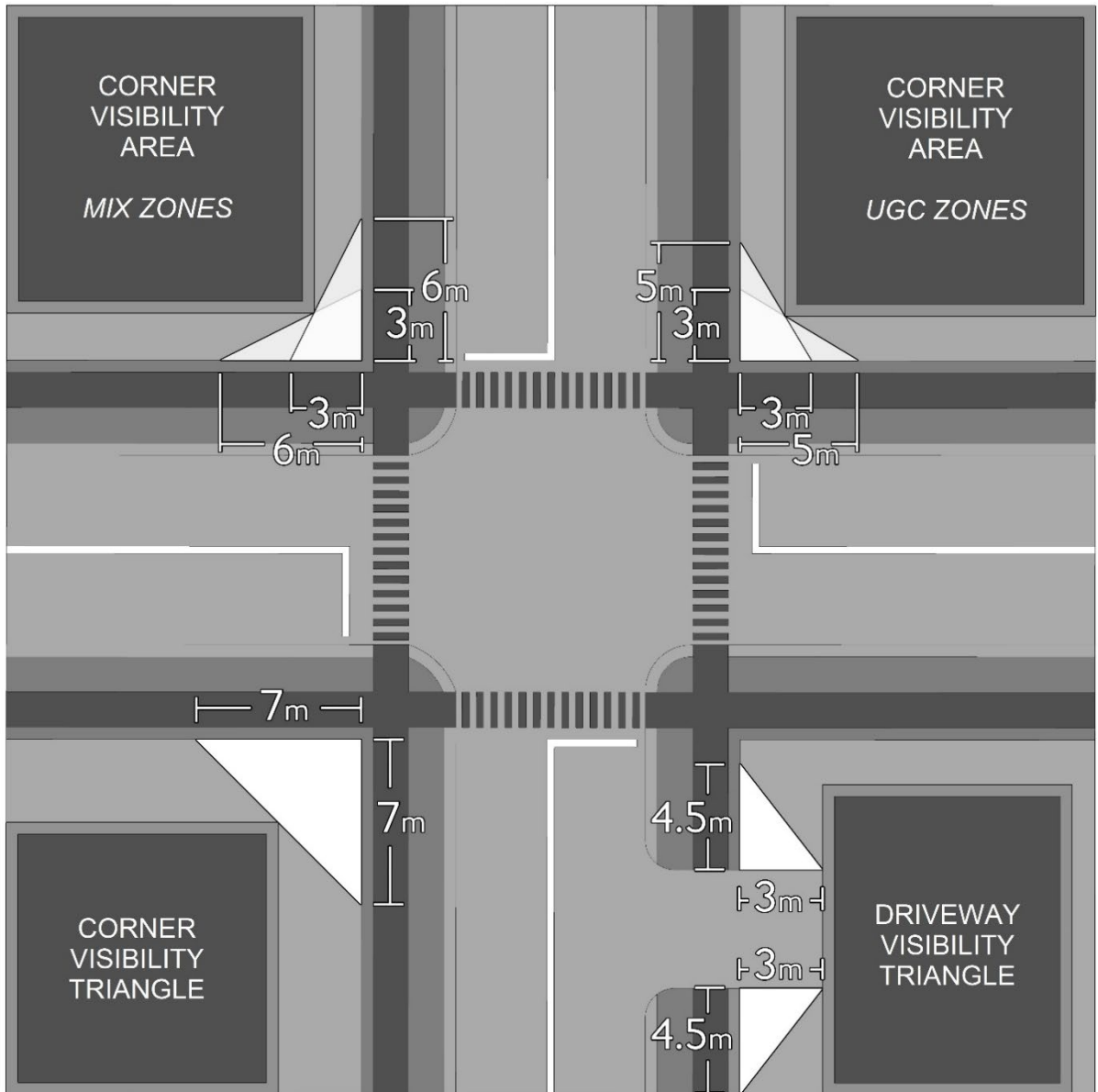
4.5 CORNER VISIBILITY TRIANGLES, CORNER VISIBILITY AREAS AND DRIVEWAY VISIBILITY TRIANGLES

- a) No *buildings*, *structures*, *motor vehicles*, *food cart*, signs, *landscaping*, or other impediments shall obstruct visibility within a *corner visibility triangle*, *corner visibility area* or *driveway visibility triangle*. An obstruction to visibility shall not include objects 0.9 metres or less in height from the ground, or objects higher than 5 metres in height from the ground. This provision 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, or *motor vehicles* parked in a *parking space* on a *driveway*. (By-law 2024-074, S.3 – 2024-03-25)
- b) A *corner visibility area* shall be required in MIX zones. One leg of both triangles shall measure 6 metres and the other leg of both triangle shall measure 3 metres. Subsection a) shall not apply to *existing buildings* or *new* construction which replaces an *existing building* with the same *building* footprint within the *corner visibility area*.
- c) A *corner visibility area* shall be required in UGC zones. One leg of both triangles shall measure 5 metres and the other leg of both triangle shall measure 3 metres.

Subsection a) shall not apply to *existing buildings* or *new* construction which replaces an *existing building* with the same *building* footprint within the *corner visibility area*.

- d) A *corner visibility triangle* shall be required in all zones except UGC zones and MIX zones and shall be measured at 7 metres from the point of intersection of the *street lines*.
- e) A *driveway visibility triangle* shall be required in all zones except SGA zones and MIX zones and shall be measured from the point of intersection of a *lot line* and the edge of a *driveway* a distance of 3 metres from the *lot line* and 4.5 metres from the edge of the *driveway*. (By-law 2024-074, S.3 – 2024-03-25)

Illustration 1: Corner Visibility Triangle, Corner Visibility Area and Driveway Visibility Triangle Dimensions



4.6 FRONTAGE ON A STREET

Unless otherwise provided for in this By-law, no *person* shall erect any *building* or *structure*; or use any *building*, *structure*, or *lot* unless:

- a) The *lot* has frontage on a *street*; or,
- b) The *lot* is separated from a *street* by land owned by a public agency for future road widening purposes, or as a 0.3 metre reserve 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.

4.7 HOME OCCUPATION

4.7.1 Regulations for Home Occupations

- a) A *home occupation* shall only be permitted on a *lot* containing a *single detached dwelling* (with or without an *additional dwelling unit (attached)* or *additional dwelling unit (detached)*), *semi-detached dwelling* (with or without an *additional dwelling unit (attached)* or *additional dwelling unit (detached)*), *street townhouse dwelling* (without an *additional dwelling unit (attached)* or *additional dwelling unit (detached)*), *cluster townhouse dwelling*, or *multiple dwelling*.
- b) A *home occupation* shall only locate in a *dwelling*.
- c) A *home occupation* shall only be operated by the *persons* resident in the *dwelling unit*.
- d) *Outdoor storage* shall not be permitted as part of a *home occupation*.
- e) A *home occupation* shall not include a *noxious use*.

4.7.2 Permitted Home Occupation Uses

No *person* shall conduct a *home occupation* for any *use* other than those permitted *uses* within Table 4-2.

Table 4-2: Permitted Home Occupation Uses

Permitted home occupation use on a lot containing a single detached dwelling or a semi-detached dwelling unit (without an additional dwelling unit (attached) or additional dwelling unit (detached)) (1)(2)(3)(4)

Home Occupation Use	First Home Occupation Use	Second Home Occupation Use
<i>Artisan's Establishment</i>	✓	
<i>Bed and Breakfast (5)(6)</i>	✓	
<i>Canine and Feline Grooming Establishment (5)(7)</i>	✓	
<i>Catering Service Establishment</i>	✓	
<i>Commercial School</i>	✓	
<i>Health Office</i>	✓	
<i>Indirect Sales</i>	✓	✓
<i>Light Repair Operation</i>	✓	
<i>Office</i>	✓	✓
<i>Personal Services (8)</i>	✓	
<i>Private Home Day Care</i>	✓	

Permitted home occupation use in a dwelling unit within a single detached dwelling with additional dwelling unit(s) (attached) or additional dwelling unit(s) (detached), semi-detached dwelling unit with additional dwelling unit(s) (attached) or additional dwelling unit(s) (detached), street townhouse dwelling with an additional dwelling unit(s) (attached) or additional dwelling unit(s) (detached), cluster townhouse dwelling, or multiple dwelling (9)(10). (By-law 2024-074, S.4 – 2024-03-25)

Home Occupation Use	First Home Occupation Use	Second Home Occupation Use
<i>Artisan's Establishment</i>	✓	
<i>Commercial School</i>	✓	
<i>Office</i>	✓	
<i>Indirect Sales</i>	✓	

Additional Regulations for Permitted Home Occupation Uses Table 4-2.

- (1) A maximum of two *home occupations* shall be permitted on a *lot*. The total maximum *gross floor area* for all *home occupations* on a *lot* is 25 percent of the *gross floor area* of the *dwelling unit*. In no case shall the *gross floor area* for all *home occupations* exceed 50 square metres of *gross floor area*.
- (2) A *home occupation* shall be conducted so as to not attract more than three customers or clients at any one time.
- (3) Despite Section 4.7.1 b), an *artisan's establishment, office, or indirect sales home occupation*, that does not attract customers or clients to the *lot*, may locate in an *accessory building*.

- (4) Despite Section 4.7.1 c), in addition to the resident, a *home occupation* may employ one non-resident employee.
- (5) Only within a *single detached dwelling*.
- (6) A maximum of two bedrooms is permitted within a *bed and breakfast*.
- (7) A maximum of two dogs and two cats associated with the *canine and feline grooming establishment* are permitted at any one time, for a maximum of three hours on any given day during regular operating hours.
- (8) Shall not include the cleaning of apparel.
- (9) A *home occupation* shall be conducted so as to not attract more than one customer or client at any one time.
- (10) A maximum of one *home occupation* shall be permitted within each *dwelling unit* to a maximum of 15 square metres of *gross floor area*.

4.8 NON-COMPLIANCE AS A RESULT OF LAND ACQUISITION

Where the acquisition of land by registration on title on or after the effective date of this By-law to widen a *street*, provide a *corner visibility triangle*, or other such requirements, results in non-compliance with any regulation herein, nothing in the By-law shall apply to prevent the continued *use* of any *lot*, *building*, or *structure* provided that such *lot*, *building*, or *structure* was lawfully established and *used* for such purpose on the date of acquisition of land.

4.9 GROUP HOMES

Only one *group home* shall be permitted on a *lot*.

4.10 CORRECTIONAL GROUP HOMES

- a) Only one *correctional group home* shall be permitted on a *lot*.
- b) No *building* or part thereof shall be *used* for a *correctional group home* on a *lot* situated within 400 metres of another *lot* on which either a *group home* or *correctional group home* is located. This distance shall be measured from the closest point of the *lot lines* associated with each *lot*.
- c) No *building* or part thereof shall be *used* for a *correctional group home* on a *lot* that is situated within 100 metres of the *city limit*. This distance shall be measured from the closest point of the *lot line* associated with such *lot* and the *city limit*.

4.11 LODGING HOUSES (Amended: By-law 2024-136, S.2 – June 24, 2024)

A *lodging house* shall be connected to full municipal services.

4.12 NUMBER OF DWELLINGS PER LOT

- a) Unless otherwise provided for in this By-law, in any *zone* where a *single detached dwelling* or *semi-detached dwelling* is permitted, no more than one such *dwelling* shall be erected on a *lot*.
- b) 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*, the future lot shall be considered a *lot* for the purposes of this By-law.
- c) A maximum of four (4) *dwelling units* are permitted on a lot which contains a *single detached dwelling*, *semi-detached dwelling unit* or *street townhouse dwelling unit*, subject to the regulations contained herein. The maximum number of units shall include the principal *dwelling unit*, *additional dwelling unit(s) (attached)* and *additional dwelling unit(s) (detached)*. (By-law 2024-074, S.5 – 2024-03-25)

4.12.1 One Additional Dwelling Unit (Attached)

One *additional dwelling unit (attached)* may be permitted in association with a *single detached dwelling*, *semi-detached dwelling unit* or *street townhouse dwelling unit* in accordance with the regulations specified by the *zone* category in which an *additional dwelling unit (attached)* is permitted, and the *dwelling* type in which the *additional dwelling unit (attached)* is located and subject to and as amended by the following:

- a) One *additional dwelling unit (attached)* shall only be located in the same *building* as a *single detached dwelling*, *semi-detached dwelling*, or *street townhouse dwelling*;
- b) An *additional dwelling unit (attached)* shall be connected to full municipal services.

Unless otherwise provided for in this By-law, in any *zone* where a *single detached dwelling* with one *additional dwelling unit (attached)* is permitted, a *new dwelling* with two *dwelling units* shall also be permitted and considered a *single detached dwelling* with an *additional dwelling unit (attached)* in accordance with regulations specified by the *zone* category and in this section.

(By-law 2024-074, S.6 – 2024-03-25)

4.12.2 Two or Three Additional Dwelling Units (Attached)

Two (2) or Three (3) *additional dwelling units (attached)* may be permitted in association with a *single detached dwelling*, *semi-detached dwelling unit* or *street townhouse dwelling unit* in accordance with the regulations specified by the *zone* category in which *additional dwelling unit(s) (attached)* are permitted, and the *dwelling* type in which the *additional dwelling unit(s) (attached)* are located and subject to and as amended by the following:

- a) *Additional dwelling unit(s) (attached)* shall only be located in the same *building* as a *single detached dwelling, semi-detached dwelling, or street townhouse dwelling*;
- b) *Additional dwelling unit(s) (attached)* shall be connected to full municipal services;
- c) A minimum of one pedestrian entrance to the *principal building* is required to face a *street line*;
- d) A maximum of two pedestrian entrances shall be permitted to face each *street line*, except where more pedestrian entrances are *existing*;
- e) An *unobstructed walkway* that is a minimum 1.1 metres in width, shall be provided from a *street* to the principal entrance of each *new additional dwelling unit (attached)*, where the principal entrance is not located on a *street line façade*.
- f) Where a *lot* is located farther than 800 metres from a *Light Rail Transit (LRT)* station as shown on Appendix E, and outside the Central Neighbourhood Area as shown on Appendix C – Central Neighbourhood Area the minimum *lot area* shall be 360 square metres or in accordance with Table 7-2, 7-3 or 7-4, as may be applicable for the *principal dwelling* type in which the *additional dwelling unit (attached)* is located, whichever is greater;
- g) Where a *lot* is located farther than 800 metres from a *Light Rail Transit (LRT)* station as shown on Appendix E, and outside the Central Neighbourhood Area as shown on Appendix C – Central Neighbourhood Area the minimum *lot width* shall be 10.5 metres or in accordance with Table 7-2, 7-3 or 7-4, as may be applicable for the *principal dwelling* type in which the *additional dwelling unit (attached)* is located, whichever is greater;
- h) The minimum *front yard landscaped area* shall be 20%, excluding surface walkways, patios, decks, playgrounds or pathways;
- i) The minimum *rear yard landscaped area* shall be 30%.

Unless otherwise provided for in this By-law, in any *zone* where a *single detached dwelling* with two (2) or three (3) *additional dwelling units (attached)* are permitted, a *new dwelling* with three (3) or four (4) *dwelling units* shall also be permitted and considered a *single detached dwelling* with *additional dwelling units (attached)* in accordance with regulations specified by the *zone* category and in this section.

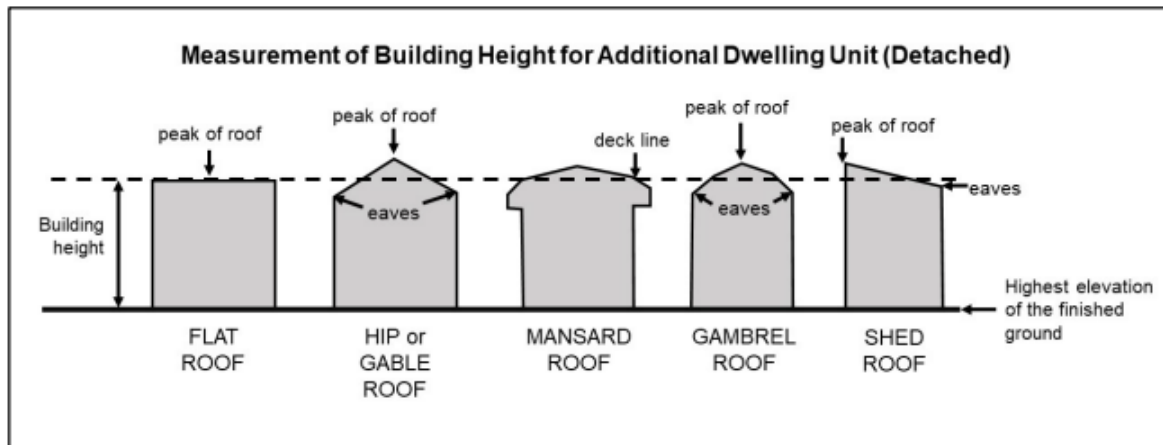
(By-law 2024-074, S.7 – 2024-03-25)

4.12.3 Additional Dwelling (Detached)

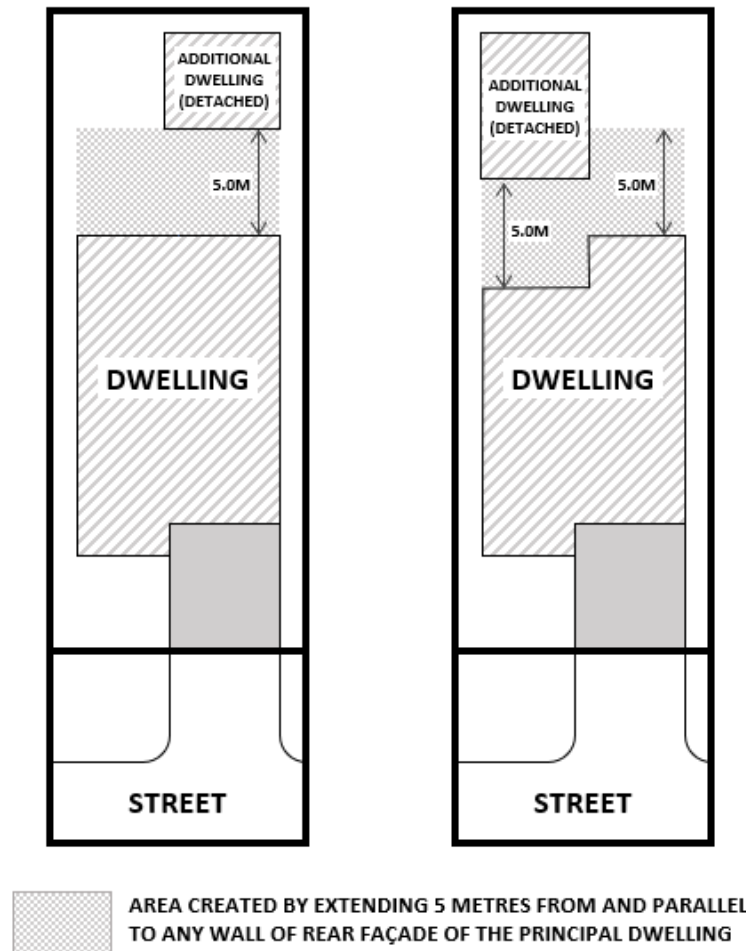
An *additional dwelling (detached)* with one (1) or two (2) *additional dwelling units (detached)* may be permitted in association with a *single detached dwelling, semi-detached dwelling unit or street townhouse dwelling unit* in accordance with the regulations specified by the *zone* category in which an *additional dwelling unit (detached)* is permitted, and as amended by the following:

- a) For the purposes of Section 4.12.3, 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* as calculated by extending a straight line along the demising wall between *dwelling units* to the front and rear property lines;
- b) An *additional dwelling (detached)* shall only be permitted on the same *lot* as a *single detached dwelling, semi-detached dwelling* or *street townhouse dwelling*;
- c) An *additional dwelling (detached)* shall not be severed from the *lot* containing the *single detached dwelling, semi-detached dwelling unit* or *street townhouse dwelling unit*;
- d) *Additional dwelling units (detached)* shall be connected to full municipal services;
- e) The *building footprint* of the *additional dwelling (detached)* shall not exceed 80 square metres, and shall comply with the maximum *lot coverage* included in Table 7-2, 7-3 or 7-4;
- f) Where a *lot* is located farther than 800 metres from a *Light Rail Transit (LRT)* station as shown on Appendix E, and outside the Central Neighbourhood Area as shown on Appendix C – Central Neighbourhood Area the minimum *lot area* shall be 360 square metres or in accordance with Table 7-2, 7-3 or 7-4 as may be applicable for the *principal dwelling* type with which the *additional dwelling unit (detached)* is associated, whichever is greater;
- g) Where a *lot* is located farther than 800 metres from a *Light Rail Transit (LRT)* station as shown on Appendix E, and outside the Central Neighbourhood Area as shown on Appendix C – Central Neighbourhood Area the minimum *lot width* shall be 10.5 metres or in accordance with Table 7-2, 7-3 or 7-4, as may be applicable for the *principal dwelling* type with which the *additional dwelling unit (detached)* is associated, whichever is greater;
- h) The maximum *building height* for an *additional dwelling (detached)* shall be:
 - i) 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;
 - i) For a shed roof the lower exterior wall shall face a *rear lot line* or the nearest *side lot line*, except where the *lot line* is a *street line* or *lane*;
 - ii) 4.5 metres for a mansard roof, measured to the deck line;
 - iii) 3 metres for a flat roof, measured to the peak of the roof.
- i) Despite subsection h), the maximum *building height* for an *additional dwelling (detached)* where the *principal dwelling* has a *building height* equal to or greater than 9.1 metres shall be:
 - i) 6.0 metres for a hip, gable, shed, or gambrel roof, measured to the midpoint between the eaves and the peak of the roof, excluding the eaves of any projections;
 - i) For a shed roof the lower exterior wall shall face a *rear lot line* or the nearest *side lot line*, except where the *lot line* is a *street line* or *lane*;

- ii) 6.0 metres for a mansard roof, measured to the deck line;
- iii) 4.5 metres for a flat roof, measured to the peak of the roof.



- j) *An additional dwelling (detached) which has a maximum building height of 4.5 metres shall have a minimum setback of 0.6 metres from a rear lot line and interior side lot line;*
- k) *An additional dwelling (detached) which exceeds a building height of 4.5 metres shall have a minimum setback of 0.9 metres from a rear lot line and interior side lot line; and notwithstanding the foregoing, where an interior side lot line or rear lot line abuts a lane the minimum setback shall be 0.6 metres;*
- l) *An additional dwelling (detached) shall not be located in the front yard of the principal dwelling, and shall not be located in the area created by extending 5 metres from and parallel to any wall of rear façade of the principal dwelling.*

Illustration 4-2: Minimum Separation of Principal Dwelling and Additional Dwelling (detached)

- m) An *additional dwelling (detached)* may be located in an *exterior side yard* of the *principal dwelling*, and must be *setback* in accordance with the required *exterior side yard setback* of the *principal dwelling* in the applicable zone;
- n) An *unobstructed walkway* that is a minimum 1.1 metres in width, shall be provided from a *street* to the principal entrance of each *additional dwelling unit (detached)*;
- o) For a *lot* containing three (3) or four (4) *dwelling units*, the minimum *front yard landscaped area* shall be 20%, excluding surface walkways, patios, decks, playgrounds or pathways;
- p) For a *lot* containing three (3) or four (4) *dwelling units*, the minimum *rear yard landscaped area* shall be 30%.

(By-law 2024-074, S.8 – 2024-03-25)

4.12.3.1 Deleted (By-law 2024-074, S.9 – 2024-03-25)

4.12.4 Five to Ten Dwelling Units on a Lot

Five (5) to ten (10) *dwelling units* on a *lot* without any non-residential *use* except permitted *home occupation uses* shall be permitted in accordance with the regulations specified by the zone category for the *dwelling(s)* and shall have:

- a) A minimum of 20% *street line façade opening* which includes at least one (1) pedestrian entrance to the *principal* building;
- b) A minimum 20% of the *front yard landscaped*, excluding surface walkways, patios, decks, playgrounds or pathways;
- c) A minimum *driveway* width of 2.6 metres;
- d) Despite section 4.12.4 c), where a *driveway* is immediately adjacent to any *building* or *structure* on a *lot*, the *driveway* including any curbing shall be a minimum 3.0 metres wide.

(By-law 2024-074, S.10 – 2024-03-25)

4.13 PERMITTED PROJECTIONS ABOVE HEIGHT RESTRICTIONS

The maximum *building height* shall not apply to *architectural features* or spires; cupolas; antennae; flag poles; elevator penthouses; roof access stairways, railings, and penthouses; and heating, ventilation, and air conditioning equipment.

4.14 PERMITTED PROJECTIONS INTO REQUIRED YARDS

4.14.1 Architectural Features

Architectural features may project into any required *yard* to a maximum of 0.6 metres.

4.14.2 Balconies

Balconies associated with a *dwelling unit* may project into any required *yard* provided that the balconies:

- a) Are not enclosed;
- b) Are not supported by the ground;
- c) Are located a minimum of 0.75 metres from an *interior side lot line* or *rear lot line*; and,
- d) Are located a minimum of 3 metres from a *street line*, except in a UGC zone or MIX zone.

4.14.3 Canopies

Canopies may project into any required *yard* provided that the canopies:

- a) Are not supported by the ground;
- b) Do not project more than 1.8 metres into a required *front yard*, *exterior side yard*, or any other *yard* abutting a *street*; and,
- c) Are located a minimum of 0.6 metres from a *street line*, *side lot line*, or *rear lot line*.

4.14.4 Decks

- a) All decks shall meet the *setback* regulations required for the *building* in the applicable *zone*.
- b) Despite Subsection a) in a *residential zone*, unenclosed decks that do not exceed 0.6 metres in height above the ground, may be located within a required *rear yard* or *interior side yard*.
- c) Despite Subsection a) in a *residential zone*, entirely unenclosed decks that exceed 0.6 metres in height above the ground, may be located within a required *rear yard* provided that they are located a minimum of 4 metres from the *rear lot line* and meet the *side yard setback* regulations required for the *dwelling* in the applicable *zone*.
- d) Despite Subsection a) covered, unenclosed decks attached to the *principal building* may be located within a required *rear yard* provided that they are located a minimum of 4 metres from the *rear lot line* and meet the *side yard setback* regulations required for the *dwelling* in the applicable *zone*.

4.14.5 Heating, Ventilation, and Air Conditioning Equipment

- a) Heating, ventilation, and air conditioning equipment; and other similar mechanical equipment associated with a *dwelling*, may locate within a *rear yard* or *interior side yard*, provided that the equipment is located a minimum of 3 metres from a *street line* and is screened from the *street*.
- b) Heating, ventilation, and air conditioning equipment; and other similar mechanical equipment associated with a non-residential *building* or *mixed use building*, may locate within a required *rear yard* or *interior side yard*, provided that the equipment has a minimum *setback* of 3 metres from a *street line* and from an abutting *residential zone*, and is screened.

4.14.6 Pools and Hot Tubs

Pools and hot tubs associated with a *dwelling unit* are permitted to locate within an *interior side yard*, *exterior side yard*, and *rear yard* provided that the pool or hot tub:

- a) has a minimum *setback* of 0.6 metres from an *interior side lot line* or *rear lot line*; and,

- b) is located a minimum of 2.1 metres from a *street line*.

4.14.7 Porches

- a) The minimum depth of a porch associated with a *dwelling unit* shall be 1.5 metres; or in the case of an *existing* porch with a depth of less than 1.5 metres, the minimum depth shall be the *existing* depth.
- b) Unenclosed porches associated with a *dwelling unit* may project into a *front yard* or *exterior side yard* provided that the porch is located a minimum of 3 metres from a *street line* and the floor of the porch does not exceed 1 metre in height above the ground. A cold room may be located beneath the porch.
- c) Despite Subsection b), a porch attached or unattached to the *principal building* of a *structure* designated under the Ontario Heritage Act may be located or reconstructed within a required *front yard* or *side yard* provided that the *setback*, *gross floor area*, dimensions, and height do not exceed what legally existed on or before March 5, 2012.

4.14.8 Restaurant Patios, Decks, and Outdoor Recreation

4.14.8.1 *Restaurant Patios, Decks, and Outdoor Recreation*

Patios, decks, and outdoor recreation associated with a *restaurant* may project into a required *yard* provided that:

- a) They are located a minimum of 30 metres from any *residential zone*;
- b) In a COM or EMP zone they have a minimum *setback* of 3 metres from a *street line*; and,
- c) Despite Subsection a), in a UGC or MIX zone, a patio, deck, and outdoor recreation associated with a restaurant may be located within a *front yard* or *exterior side yard*.

4.14.8.2 *Private Patios*

Any required private patio shall be a minimum of 11 square metres in size.

4.14.9 Satellite Dishes and Antennas

Satellite dishes and antennas may project into a required *yard* and they shall be attached to a *building* and shall not exceed 0.9 metres in diameter.

4.14.10 Steps and Access Ramps

- a) Steps and access ramps that do not exceed 0.6 metres above grade, at grade, or below grade, may be located within a *side yard* provided they are setback 0.5 metres from the closest property line.
- b) Steps and access ramps that exceed 0.6 metres above ground level shall be located a minimum of 3 metres from a *street line* and a minimum of 0.75 metres from an *interior side lot line* or *rear lot line*. Portions of steps and access ramps located above the *ground floor storey* shall be located a minimum of 1.2 metres from an *interior side lot line* or *rear lot line*.
- c) The maximum area of steps and access ramps located in a *front yard* shall not exceed 40 percent of the area of the *front yard*.

4.15 PERMITTED USES

4.15.1 Automotive Detailing and Repair Operation, and Heavy Repair Operation

- a) Any portion of a *building used for an automotive detailing and repair operation and/or heavy repair operation* shall be *setback* a minimum of 14 metres from any *lot line* abutting a *residential zone*.
- b) Despite Subsection a), where such *building* or portion thereof is constructed without an opening, such as a vent, door, or window, the *setback* regulations of the applicable *zone* apply.

4.15.2 Construction Uses

A *lot* in any *zone* may be *used* for temporary *buildings* and trailers associated with construction work occurring on such *lot* for the duration of construction, or for as long as the building permit is valid, whichever comes first. No temporary *building* and/or trailer intended for construction work purposes shall be *used* for human habitation.

4.15.3 Drive-Through Facilities

- a) A *drive-through facility* shall be located a minimum distance of:
 - i) 15 metres from an abutting *residential zone* where a visual barrier is provided along the abutting *lot line*; and,
 - ii) 7.5 metres from an abutting *residential zone* where an acoustic barrier, certified by a professional engineer, is installed along the abutting *lot line* prior to occupancy of the *drive-through facility*, and is maintained thereafter.
- b) Subsection a) shall not apply to an *existing drive-through facility*.

4.15.4 Food Cart

A *food cart* shall be permitted in all *zones* except *residential zones*, *NHC zones* or *OSR-3 zones*, provided that:

- a) It does not occupy any *drive aisle* or required *parking space*; and,
- b) It does not exceed 2.0 metres in height, 2.0 metres in length and 1.2 metres in width.

4.15.5 Gas Station

- a) A fuel pump island shall have a *setback* of 6 metres from a *street line*, and a canopy structure above a fuel pump island shall have a *setback* of 3 metres from a *street line*;
- b) A fuel pump island and a canopy structure above a fuel pump island shall be located a minimum of 30 metres from a *residential zone*;
- c) No underground or above-ground fuel storage tank shall be located within 3 metres of a *street line*;
- d) The *rear yard setback* for a *building* associated with a *gas station* shall be 3 metres; and,
- e) The minimum *interior side yard setback* for a *building* associated with a *gas station* abutting a *residential zone* shall be 3 metres.

4.15.6 Model Home

- a) A maximum of 10 *model homes* may be permitted on a *lot* in any *zone*.
- b) The *model homes* shall be constructed to the requirements and provisions of the *zone* in which the *model homes* are located. The *model homes* shall be situated within 150 metres of an in-service fire hydrant on lands in a draft approved plan of subdivision, with or without service connections.

4.15.7 Public Uses and Utilities

Unless otherwise regulated herein, *public uses* and *utilities* may be permitted in any *zone*, provided that:

- a) Such *use*, *building*, or *structure* complies with the regulations, and parking and loading requirements of the applicable *zone*; and,
- b) *Accessory outdoor storage* may be permitted, and shall not be located within any *yard* abutting a *residential zone*.

4.15.8 Shipping Container

- a) A *shipping container* shall not be located on a *lot* in a *residential zone*.
- b) Despite Subsection a), a *shipping container* may be permitted on a *driveway* within a *residential zone* for a period not exceeding 30 days in any given year, provided that the *shipping container* is not located within or blocking access to a required *parking space*, and that the *shipping container* is located a minimum of 0.6 metres from a *street line*.
- c) Where a *shipping container* is converted and *used* as a construction material for a residential *dwelling* subject to the Ontario Building Code, it is a *building*.

4.15.9 Towing Compounds

A *towing compound* shall not be located on a *lot* that is within 30 metres of a *residential use*.

4.15.10 Temporary Sales Centre

A *temporary sales centre* is permitted in all UGC, MIX, and COM zones; and in all *residential zones*, and shall be subject only to the *setback* regulations of the applicable zone.

4.16 SETBACKS FROM RAILWAYS

- a) Any portion of a *building* used for *dwelling units*, *multiple dwellings*, *elementary school*, *secondary school*, *post-secondary school*, *adult education school*, *day care facility*, or *place of worship* shall be *setback* a minimum of:
 - i) 30 metres from the *lot line* of the active railway right-of-way for a Principal or Secondary Main Line; or,
 - ii) 15 metres from the *lot line* of the active railway right-of-way for a Principal, Secondary or Tertiary Branch Line
- b) Subsection a) shall not apply to any railway right-of-way or section thereof solely used for *light rail transit*.

4.17 TWO OR MORE ZONES ON A LOT

Where two or more zones apply to a *lot*, the following shall apply:

- a) *Floor space ratio* shall be calculated using only that portion of the *building floor area* and only that portion of the *lot area* within each zone.
- b) Despite Subsection a) the *lot area* of lands zoned OSR-2 and used for *utility corridor* purposes shall be permitted to be included in the calculation of *floor space ratio* for an abutting portion of the lot within another zone.

- c) *Building height* shall be measured to the uppermost point of that portion of a *building* within each *zone*.
- d) *Parking spaces* and *bicycle parking stalls* associated with permitted uses within each *zone* on a *lot* may be located within any *zone* on a *lot*, except that portion of a *lot* within a OSR, NHC or EUF *zone*.

4.18 VISUAL BARRIER

Where a visual barrier is required, it shall be a minimum height of 1.8 metres above ground level, and shall be an opaque screen consisting of materials such as a wall, fence, trees, shrubs, and/or earth berms.

4.19 TRANSITION TO LOW-RISE RESIDENTIAL

Despite any maximum *building height* of more than 12 metres applying to any *zone*, the *building height* shall not exceed 12 metres within 15 metres of a *lot* with a *low-rise residential zone*. Where the *low-rise residential zone* within 15 metres permits a *building height* of 14 metres, the *building height* shall not exceed 15 metres within 15 metres of a *lot* with a *low-rise residential zone*.

4.20 REDUCTION IN REGULATIONS RESULTING FROM PARKLAND

1. If the dedication of land, to the City of Kitchener, for the purpose of parkland dedication results in non-compliance with regulations existing on the date of the transfer of ownership, for *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 where a *building* or *use* is proposed to be developed in strict accordance with an approved site plan, which required the conveyance of land for parkland dedication; provided that no greater benefit shall be obtained than that which could be obtained based on the zoning in effect on the date of such land dedication.
2. If the dedication of land to satisfy parkland dedication requirements results in non-compliance with regulations not listed in 5.34.1 and existing on the date of the land transfer, the non-compliance with those regulations shall be deemed to comply where the *building* or *use* legally existed on the date of the land transfer.

4.21 REDUCTIONS IN REGULATIONS RESULTING FROM STREET WIDENING

- a. If the acquisition of land, by registration on title on or after the date of the passing of this by-law, 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 follow:
 - i. where the *building* or *use* existed at the date of the acquisition;

- ii. 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
- iii. 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*; and,
- iv. subsections i) through iii) shall only apply 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.
- b. 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 subsection a) 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.