

SECTION 3 - GENERAL PROVISIONS

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- 3.1 Zones: for the purpose of this By-law, the following classes and zones are established and shown on the various Schedules to the By-law:

CLASS RURAL

<i>Zone Symbol</i>	<i>Zone</i>
A	Rural
AO	Agricultural Only
APO	Agricultural Purposes Only
RR	Rural Residential

CLASS RESIDENTIAL

<i>Zone Symbol</i>	<i>Zone</i>
RS	Suburban Residential
RC	Shoreline One Family Residential
R1	Residential – One Family
R1-1	Residential – One Family – Special
R2	Residential – Two Family
R3	Residential – One, Two, Three & Four Family
RM4	Residential – Multiple Family
RM4-1	Residential – Multiple Family – Special

CLASS COMMERCIAL

<i>Zone Symbol</i>	<i>Zone</i>
C1	Commercial – General
C2	Commercial – Service
C3	Commercial – Highway
C4	Commercial – Marine
C4-1	Commercial – Marine - Special

CLASS INDUSTRIAL

<i>Zone Symbol</i>	<i>Zone</i>
M1	Industrial – Restrictive
M2	Industrial – General
M3	Industrial – Extractive
M4	Industrial – Light
M5	Industrial – Prestige
M6	Industrial - Commercial
M6A	Industrial – Commercial Office

CLASS MISCELLANEOUS

<i>Zone Symbol</i>	<i>Zone</i>
OS	Open Space
INST	Institutional
PDH	Potential Development Areas (Holding)

3.1A Zone Symbols

The zone symbols listed in subsection 1 may be used to refer to buildings and structures as well as the uses of lots, buildings and structures permitted by this By-law in the said zones. Wherever in this By-law the word "Zone" is used, preceded by any of the said zone symbols, such reference shall mean any portion of the Zoned Area delineated on a schedule to this By-law and designated thereon by the said symbol. *(By-law 500F0-91)*

3.1B Special Zones

Where a zone symbol is followed by a dash and a number (for example 'RM-1'), this denotes a special zone. The permitted uses and the zone provisions for such special zone shall be set out in subsections of the section of this By-law applicable to such zone symbol. *(By-law 500F0-91)*

3.2 Zone Boundaries

When determining the boundary of any Zone as shown on any Schedule forming part of this By-law, the following provisions shall apply:

- (a) A boundary indicated as following a highway, street or lane shall be the centre line of such highway, street or lane;
- (b) A boundary indicated as following a watercourse, creek, stream, or the right-of-way of a railway or an electrical, gas or oil transmission line shall be the centre line of such watercourse, creek, stream or right-of-way;
- (c) A boundary indicated as approximately following lot lines shown on a registered plan of subdivision or Town lot lines shall follow such lot lines;
- (d) Where a boundary is indicated as approximately parallel to a street line or other feature, indicated in clauses (a) or (b) of this subsection, and the distance from such street line or feature is not indicated, and clause (c) above is not applicable such boundary shall be construed as being parallel to such street line or other feature, and the distance therefrom shall be determined according to the scale shown on the appropriate Schedule at the original scale and shall be deemed to be the centre point of the line on such Schedule which denotes the said boundary. *(By-law 500GD-91)*
- (e) A boundary indicated as following the limits of the Town shall follow such limits.

3.3 Application of By-law

No building or structure shall, hereafter be erected or altered, and the use of any building, structure or lot shall hereafter not be changed in whole or in part except in conformity with the provisions of this By-law.

3.4 Accessory Use

- (a) Where this By-law provides that land may be used or a building or structure may be erected or used for a purpose, that purpose shall include any accessory building or accessory use incidental thereto.
- (b) Except as may be provided herein any accessory building which is not part of the main building shall be erected to the rear of the front line of the main building and shall comply with the yard requirements of the zone in which such building is situated and such accessory uses shall not occupy more than 8 per cent of the area of the lot except that an above ground swimming pool and an inground swimming pool or satellite dish shall not be considered in the calculation of the accessory structure lot coverage. *(By-law 500GD-91)*
- (c) No accessory buildings other than farm buildings shall exceed 4.5 metres (15 ft) in height. *(By-law 500GD-91)*
- (d) A satellite dish may be located in any interior side yard or rear yard provided in the case of a corner lot no part of the satellite dish shall be erected closer to the exterior lot line than the minimum front yard required in the zone in which the satellite dish is to be located. *(By-law 500GD-91)*
- (e) Notwithstanding any other provisions of this By-law to the contrary, the following provisions shall apply with respect to private in-ground swimming pools and above ground swimming pools: *(By-law 500GD-91)*
 - (i) the minimum side or rear yard requirements shall comply with the accessory building yard requirements for the zone in which the pool is located, and
 - (ii) the minimum yard requirements shall be taken from the interior wall surface, and in the case of an above ground swimming pool from the nearest part of any related structure, to the lot line.

3.5 Automobile Service Stations and Public Garages

Notwithstanding the provisions of the Schedules to the By-law, the following additional provisions shall apply to automobile service stations and public garages.

- (a) **Pump Location**
Notwithstanding Section 2.82, a pump island shall be allowed in the front and side yards subject to the following:
 - (i) The minimum distance from the face of the pump island to the front property line on a Municipal Street or Regional Road shall be 25 ft metres in the case of a 66 ft road allowance or greater road allowance and a 40 ft metre setback on road allowances of less than 66 ft metres in width.

Provided that any existing pump island may be reconstructed or replaced providing that it is reconstructed or replaced no closer to the street line than such pump island existed at the date of the passing of this By-law. *(By-law 500M-76)*

- (ii) There shall be a minimum green belt area of at least 10 ft in width across the frontage of the subject lot.
 - (iii) The minimum distance from the face of the pump island to any part of a sight triangle shall be 10 ft.
- (b) Ramps
- (i) The maximum width of ramp measured along the street line shall be 30 ft.
 - (ii) The minimum distance between ramps shall be 25 ft measured along the street line.
 - (iii) The minimum distance from the intersection of the street lines to any ramp shall be 25 ft measured along the street line.
 - (iv) The minimum angle between ramp and street line shall be 60 degrees.

3.6 Building Repair and Reconstruction

- (a) Nothing in this By-law shall prevent restoration of an historical building, the strengthening to safe condition of a building or structure or the repair of minor damage to a building or structure that is a non-conforming use, provided that:
 - (i) such restoration, strengthening or repair does not contravene the provisions of this By-law by increasing the height, size or volume or change the use of such building or structure, and
 - (ii) if the building is dwelling house in other than a residential zone, it shall comply with all of the requirements set out in Schedule "F" for a One Family Residential (RI) Zone.
- (b) Any building or structure which in the opinion of the Building Inspector sustains major damage, that is, more than 50% of its value shall not be strengthened or repaired unless it complies with the provisions of this By-law, except in the case of a dwelling unit in a Residential Class in which case it may be rebuilt provided the dimensions of the building are not increased and the yards appurtenant thereto are not reduced except in accordance with the provisions of this By-law. *(By-law 500GD-91)*
- (c) Nothing in this By-law shall be deemed to prohibit the moving to another location within the same class of any dwelling in existence at the date of the passing of this By-law. *(By-law 500PE-91)*

- (d) No person shall place any building on any lot within the Municipality for the purpose of human habitation which has been moved from another Municipality save and except a prefabricated building which meets the requirements of the Ontario Building Code. *(By-law 500GD-91)*

3.7 Continuation of Farming Use

Nothing herein contained shall prevent the continued use of any land, building or structure for farming purposes or any new farm buildings or building additions for such use provided that any new buildings or building additions comply with the requirements of Schedule "F" for a Rural (A) Zone as to coverage, yard and height provisions.

(By-law 500PE-01)

3.8 Dwelling Unit Below Grade

No dwelling unit shall in its entirety be located in a cellar. If any portion of a dwelling unit is located in a cellar, such portion of the dwelling unit shall be used as a furnace room, laundry room, storage room, recreation room or for similar use only.

However, a dwelling unit in its entirety, may be located in a basement provided that finished floor level of such basement is not below the level of any sanitary or storm sewer serving the building or structure in which such basement is located and provided further that the floor level of such basement is not more than 2 feet below the adjacent finished grade.

3.9 Dwelling Unit in Non-Residential Building

No person shall use any lot, or erect, alter or use any building or structure for the purpose of a dwelling unit on a lot zoned other than for residential or development use or in a portion of non-residential building except in accordance with the following regulations:

- (a) A single dwelling unit for use by the owner or operator may be permitted with a private water supply and sewage system, but where two or more dwelling units are permitted, within a portion of a non-residential building they shall be served by a public water supply and sanitary sewer system.
- (b) The dwelling unit shall have a minimum floor area in accordance with the following provisions:
 - (i) a one family dwelling of 700 square feet which shall include one bedroom plus 150 square feet for each additional bedroom.
 - (ii) a dwelling unit in a portion of a non-residential building - same minimum areas as required in the RM-4 Zone of Schedule "F" Zone Requirement Table.

- (c) The dwelling unit shall have separate washroom or bathroom and kitchen facilities from those of the non-residential use.
- (d) Each dwelling unit shall have one separate parking space. *(By-law 500PE-01)*
- (e) The dwelling unit shall have a separate building entrance to that provided for the non-residential use.
- (f) In a General Commercial (C1) Zone or a Shopping Centre Commercial (C4) Zone, no dwelling unit shall be located in a non-residential building except on the second or higher storey of such building.
- (g) The gross floor area of the residential portion of a non-residential building in a General Commercial (C1) Zone shall not exceed 50 per cent of the lot area.
- (h) In the case of a residential dwelling unit being located in a separate building on the same lot as a non-residential building located in other than a residential zone and which lot is not serviced by a public water supply and sanitary sewer system, the following provisions shall apply:

Minimum lot frontage	200 ft.
Minimum lot area	1 acre
Minimum lot depth.....	200 ft
Maximum lot coverage (by all buildings).....	75%
Maximum lot coverage (by dwelling unit).....	10%

All other requirements of this By-law pertaining to the zone in which the lot is located.

3.10 Excepted Lands, Buildings and Non-Conforming Uses

(a) Continuation of Existing Uses

The provisions of this By-law shall not apply to prevent the use of any land, building or structure for any purpose prohibited by this By-law if such land, building or structure was lawfully used for such purpose on the day of the passing of this By-law so long as it continues to be used for that purpose or to prevent the erection or use for a purpose prohibited by this By-law of any building or structure the plans for which have, prior to the day of the passing of this By-law, been approved by the municipal architect, or building inspector, so long as the building or structure when erected is used and continues to be used for the purpose for which it was erected and provided the erection of any such building or structure is commenced within 2 years after the day of the passing of this By-law and such building or structure is completed within a reasonable time after the erection thereof is commenced.

(b) Residential Use in a Non-Residential Zone

Nothing in this By-law shall apply to prevent the alteration and/or extension of a residential building existing at the date of passing of this By-law in any Non-Residential Zone provided that the number of dwelling units is not increased and provided further that such alteration does not contravene any of the provisions of this By-law for such use in a One Family Residential (R1) Zone.

(c) Change of Use

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

(d) Ground Floor Area Less Than Required

Nothing in this By-law shall prevent an alteration being made to a permitted dwelling house, which dwelling house existed at the time of passing of this By-law but which has a ground floor area or dwelling unit area less than that required by this By-law, provided such alteration does not contravene any other provisions of this By-law.

3.11 Frontage on Public Road or Street

No person shall erect any building or structure in any zone unless the lot upon which such building or structure is to be erected fronts upon a public street, but "public street" shall not include an unopened road allowance.

3.13 Height Exceptions

Notwithstanding the height provisions of Schedule 'F', nothing in this By-law shall apply to prevent the erection of a church spire, belfry, clock tower, chimney, farm building or structure, silo, water tank, windmill for the purposes of pumping water or air circulation, radio, radar, or television tower or antenna. (*By-law 500UP-08*)

3.13A Landscaped Open Space

Landscaped open space shall be provided in accordance with the zone provisions set out herein for each zone and the following general provisions: (*By-law 500EX-88, By-law 500GD-91*)

- (a) any part of a lot which is not occupied by buildings, structures, parking area, loading spaces, driveways, excavations, agricultural uses or permitted outdoor storage areas shall be maintained as landscaped open space.

- (b) Except as otherwise specifically provided herein, no part of any required front yard or required exterior side yard shall be used for any purpose other than landscaped open space.
- (c) Where landscaped open space of any kind, including a planting strip, is required adjacent to any lot line or elsewhere on a lot, nothing in this By-law shall apply to prevent such landscaped open space from being traversed by pedestrian walkways or permitted driveways.
- (d) No part of any driveway, parking area, loading space, stoop, roof-top terrace, balcony, swimming pool or space enclosed within a building, other than a landscaped area located above an underground parking area, shall be considered part of the landscaped open space on a lot.
- (e) Commercial, Industrial and Multiple Family residential Zones may require additional landscaping as required by the provisions of the Site Plan Control Agreement, as allowed for under Section 40 of the Planning act.

3.13-1 Niagara District Airport Height Exceptions

The height exception regulations stated in Section 3.13 shall not apply within a 3962.4 metre radius from the centrepont of Niagara District Airport and that height restrictions within this radius will be set in accordance with the requirements of the Department of Transport regarding "Obstruction Clearance Surfaces". The Town shall have regard to these requirements in reviewing new development proposals within the area affected.
(By-law 500CM-83)

3.14 Lane as Yard

Where the rear lot line of a lot adjoins any portion of a lane, one-half of the width of that portion of such land may be considered part of the lot for the purpose of computing the area of the lot or the depth of any rear yard required under this By-law.

3.15 Loading Space Regulations

(a) Loading Space Requirements

The owner or occupant of any lot, building or structure erected or used for any purpose involving the receiving, shipping, loading or unloading of persons, animals, goods, wares and merchandise and raw materials, shall provide and maintain at the premises, on the lot occupied by the building or structure and not forming part of a street or lane, within the zone in which such use is located, loading or unloading spaces 30 feet long, 12 feet wide and having a vertical clearance of, not less than, 14 feet, and in accordance with the following:

Total Floor Area of Building or Structure	Number of Loading Spaces Required
(i) 5,000 ft ² or less	none
(ii) exceeding 5,000 ft ² but not 10,000 ft ²	1
(iii) exceeding 10,000 ft ² but not 50,000 ft ²	2
(iv) exceeding 50,000 ft ²	3 plus 1 additional space for each additional 50,000 ft ² or fractional part thereof in excess of 50,000 ft ²

Provided, however, that in addition to the above loading spaces, adequate space shall be provided for the parking of vehicles awaiting access to loading spaces.

- (b) **Access**
Access to loading or unloading spaces shall be by means of a driveway at least 20 feet wide contained within the lot on which the spaces are located within or adjoining the zone in which the use is located.
- (c) **Loading Space Surface**
The driveways, loading and unloading spaces shall be constructed and maintained with a stable surface which is treated so as to prevent the raising of dust or loose particles, and with provisions for drainage facilities.
- (d) **Location**
The loading space or spaces required shall be located in the interior side or rear yard unless set back from the street line a minimum distance of 80 feet.
- (e) When a building or structure has insufficient loading space at the date of passing of this By-law to comply with the requirements herein, this By-law shall not be construed to require that the deficiency be made up prior to the construction of any addition. Loading area shall be provided for any addition to a structure in compliance with this Section.

3.16 Lots Having Less Area Than Required (By-law 500PE-01)

Where any lot has less than the lot frontage, depth or area than that required by this By-law in the applicable zone, and:

- (i) has been continuously held in distinct and separate ownership in its entirety since the day of the passing of the By-law, or,
- (ii) is the whole of a lot on a Registered Plan of Subdivision, or

- (iii) the deficiency has been caused by the conveyance to or the expropriation by any authority having the power of expropriation.

Such lot may be used for any purpose permitted in the applicable zone, provided that all other regulations of the applicable zone and of this By-law are complied with and provided that the minimum ground floor area of the main building or dwelling shall be a minimum of 93 m² (1,000 ft²).

3.17 Number of Dwelling Units on One Lot

In this By-law, the number of dwelling units permitted on any lot shall be contained in one building except in the following zone:

- (a) In a Multiple Family Residential (RM4) Zone where a group of buildings may be constructed on one lot in accordance with an approved Site Plan, as defined in Section 2.73, which together contain the total number of units permitted on the lot. *(By-law 500M-76)*
- (b) In a Rural (A) Zone where a lot has an area of at least 8.09 hectares (20 acres) and is used only for farming, one additional dwelling may be erected, altered or maintained and for each additional 20.24 hectares (50 acres) used only for farming, one further additional dwelling may be erected, altered or maintained; providing that such additional dwelling shall be used only for the accommodation of persons necessary to the operation of such farm on a full-time basis. *(By-law 500GD-91)*

3.18 Occupation of Uncompleted Buildings

No building, or part of any building, shall be occupied until the whole of the exterior of such building has been completed according to the plans and specifications thereof filed with the Building Inspector and the heating, plumbing and electrical facilities shown on the plans are connected and usable in accordance with the building permit issued by the Corporation, pursuant to Section 38 of The Planning Act, R.S.O. 1970 Chapter 349.

3.19 Parking Area Requirements *(By-law 500GD-91)*

(a) Parking Space Requirements

- (i) Any lot, building or structure used or erected for any of the purposes set forth in this subsection, shall provide and maintain for the sole use of the owner, occupant or other persons entering upon or making use of the said lot, building or structure from time to time, parking spaces in accordance with the provisions of this subsection as follows. Unless otherwise specified, the standards are expressed in one space per units of gross leasable floor area. *(By-law 500PE-01)*

- (ii) Where a part of a parking space is required in accordance with this By-law, such part shall be considered one parking space for the purpose of calculating the total parking requirements of the said use.

TYPE OF USE	MINIMUM PARKING REQUIREMENT
Agricultural Market	1 per 18.5 m ² (200 ft ²) (<i>By-law 500GH-91</i>)
Animal Hospital	1 per 45 m ² (484 ft ²)
Arena	1 per 8 seats
Assembly Hall	1 per 8 seats
Automobile Rental Establishment	1 per 18.5 m ² (200 ft ²)
Automobile Repair Garage	6 per bay
Automobile Service Establishment	6 per bay
Bank or Financial Establishment	1 per 15 m ² (161 ft ²)
Building or Contracting Establishment	1 per 30 m ² (323 ft ²)
Building Supply or Lumberyard	1 per 18.5 m ² retail/showroom and 1 per 90 m ² wholesale/warehouse
Business or Professional Office	1 per 28 m ² (300 ft ²)
Carwash	3 spaces per service area
Caterer's Establishment	1 per 200 m ² (2152 ft ²)
Church	*NOTE: Subsidiary occupancy shall not be assessed (ie Sunday School, office, etc.) SEATING: Fixed: 1 per 5 seats or 3 m of Bench Space Non-fixed: 1 per 9 m ² of public floor area (161 ft ²)
Clinic	1 per 15 m ² (161 ft ²)
Clubhouse	1 per 18.5 m ² (200 ft ²)
Coin Laundry	1 per 18.5 m ² (200 ft ²)
Commercial Greenhouse	1 per 18.5 m ² (200 ft ²) of retail area and 1 per 1000 m ² (10,000 ft ²) wholesale growing area

Commercial Uses not Specifically Identified	1 per 18.5 m ² (200 ft ²)
C4-1 Special Zone	SEE SECTION 14.4.13
Commercial Recreation Establishment	1 per 18.5 m ² (200 ft ²)
Community Centre	1 per 10 m ² (107 ft ²)
Conference Rooms or areas used in conjunction with other uses listed herein	1 per 18.5 m ² (200 ft ²)
Contractor's or Tradesman's Shop or Office	1 per 28 m ² (300 ft ²)
Convenience Store	1 per 18.5 m ² (200 ft ²)
Data Processing Establishment	1 per 28 m ² (300 ft ²)
Dwelling -One Family	1 space
Dwelling -One Family -Special	SEE SECTION 8.3
Dwelling -Semi-Detached	1 per unit
Dwelling -Two Family	1 per unit
Dwelling -Duplex	1 per unit
Dwelling -Triplex	1 per unit
Dwelling -Fourplex	1.5 per unit
Dwelling -Multiple	1.5 per unit
Dwelling -Multiple -Special	SEE SECTION 11.3
Dwelling -Condominium	1.5 per unit
Dwelling House, Converted	1 per unit
Day Care Facility	1 per 18.5 m ² (200 ft ²)
Dry Cleaning & Laundry Depot	1 per 18.5 m ² (200 ft ²)
Dry Cleaning & Laundry Plants	1 per 185 m ² (2000 ft ²)
Duplicating Shops	1 per 18.5 m ² (200 ft ²)
Farm Implement Dealer	1 per 30 m ² (323 ft ²)

Financial Institution	1 per 15 m ² (161 ft ²)
Garden Centre	1 per 30 m ² (323 ft ²)
Golf Course	4 per tee
Hospital	1 per 1.25 beds
Hotel	1 per rental unit in addition to other uses as identified herein
Household Furnishing Store	1 per 28 m ² (300 ft ²)
Industrial Uses not Specifically Identified	1 per 93 m ² (1001 ft ²)
Kennel	1 per 28 m ² (300 ft ²)
Laboratories	1 per 45 m ² (484 ft ²)
Manufacturing Establishment	1 per 100 m ² (1076 ft ²)
Marina	1 per boat dock or slip
Meeting Hall or Auditorium	1 per 10 m ² (107 ft ²)
Motel	1 per rental unit
Motor Vehicle Sales & Service Establishment	1 per 28 m ² (300 ft ²) of office/display area plus 1 per 50 m ² (538 ft ²) of service area
Museum	1 per 50 m ² (538 ft ²)
Nursing Home	1 per 3 beds
Office not Specifically Identified	1 per 28 m ² (300 ft ²)
Office, Business	1 per 28 m ² (300 ft ²)
Office, Medical/Dental	1 per 15 m ² (161 ft ²)
Office, Professional	1 per 28 m ² (300 ft ²)
Office, Service	1 per 28 m ² (300 ft ²)
Personal Service Establishment	1 per 15 m ² (161 ft ²)
Place of Entertainment	1 per 18.5 m ² (200 ft ²)
Printing Establishment	1 per 185 m ² (2000 ft ²)

Private Club	1 per 18.5 m ² (200 ft ²)
Produce Stand	1 per 18.5 m ² (200 ft ²)
Publishing Establishment	1 per 185 m ² (2000 ft ²)
Retail Store	1 per 18.5 m ² (200 ft ²)
Research & Development Lab	1 per 45 m ² (484 ft ²)
Restaurant	1 per 9 m ² (97 ft ²)
Restaurant -Outdoor Patio	SEE SECTION 3.31
School	
- nursery	1.5 per classroom
- elementary	1.5 per classroom
- secondary	4 per classroom
Senior Citizen's Home	.25 per unit
Service Shop	1 per 18.5 m ² (200 ft ²)
Service and Repair Shop	1 per 18.5 m ² (200 ft ²)
Service Trade	1 per 45 m ² (484 ft ²)
Shopping Centre	1 per 18.5 m ² (200 ft ²)
Take Out Food Outlet	15 spaces
Theatre	1 per 8 seats
Transportation Terminal	1 per 100 m ² (1076 ft ²)
Undertaking Establishment	1 per 10 m ² (107 ft ²)
Wholesale Establishment	1 per 150 m ² (1614 ft ²)

3.19 (b) Parking Area Requirements:

Parking areas shall conform to the following requirements:

- (i) each parking space shall be at least 2.74 metres (8.99 ft) by 6.0 metres (19.69 ft) and shall be provided with unobstructed access to a street by a driveway, aisle or lane conforming to the requirements of this By-law.
(By-law 500GD-91) [Please note the new definition of a parking space in Section 2.63 as established by By-law 500PE-01]

3.19 (c) Parking Area Surface:

In a Commercial or Industrial Zone, a parking area and driveway connecting the parking area with a street shall be maintained with a stable surface which is treated so as to prevent the raising of dust or loose particles. They shall, before being used, be constructed of crushed stone, slag, gravel, crushed brick (or tile), cinders, asphalt, concrete, Portland cement binder, or like material, and with sufficient drainage facilities as approved by the Town Engineer.

3.19 (d) Ingress and Egress:

(i) Ingress and egress to and from the required parking spaces and areas shall be provided by means of unobstructed driveways or passageways as follows:

- single, semi-detached, duplex or townhouse dwellings shall be served by a minimum of one unobstructed driveway at least 3 m (9.84 ft) in width and not more than 6 m (19.69 ft) in width and where more than one driveway is provided the accumulated width shall not exceed 35% of the lot frontage.
- within the area shown a C1 on Schedule 'B' of By-law 500A-74, as amended, fronting on Queen Street, ingress and egress to and from the required parking spaces shall be provided by means of unobstructed driveways or passageways at least 3 metres in width but not more than 9 metres in perpendicular width.
- for uses other than those identified above driveways and parking aisles shall have a minimum unobstructed width of 6 m (19.69 ft) where two-way is permitted and 3 m (9.84 ft) in width where only one-way traffic is permitted and is clearly indicated by signs, pavement markings or both as to the direction of traffic.

(ii) The minimum distance between a driveway and an intersection of street lines measured along the street line intersected by such driveway shall be 7.5 metres (24.6 ft).

(iii) Every lot shall be limited to the following number of driveways:

- 1) up to the first 30.48 m (100 ft) of frontage -not more than 2 driveways; and
- 2) for each additional 30.48 m (100 ft) of frontage -not more than 1 additional driveway.

3.19 (e) Illumination:

Where parking areas are illuminated, lighting fixtures shall be so arranged that no part of any fixture shall be more than 9 metres (29.5 ft) above finished grade of the parking area. Fixtures shall be so designed and installed that the light is directed downward and deflected away from adjacent lots, roads and streets.

3.19 (f) Addition or Change of Use to Building or Structure:

When the use of a building or structure had insufficient parking spaces on April 25, 1974 to conform with the requirements herein, this By-law shall not be interpreted to require that the deficiency be made up prior to construction of any addition or a change of use provided, however, that any additional parking spaces required by this By-law for such addition or change of use are provided in accordance with all provisions hereof respecting parking spaces and parking area.

3.19 (g) Use of Parking Spaces and Areas:

Any area where off-street parking is permitted under this By-law shall be used for no other parking purpose than for the parking of operative passenger vehicles and vehicles used in operations incidental to the permitted uses on the lot, all bearing currently valid license plates.

Provided that no commercial vehicle or motorized construction equipment shall be parked or stored on any lot in a residential class except for one commercial vehicle which:

- (i) is operated by the occupant of the said lot, and
- (ii) is not longer than 7 m (22.96 ft)

Or except for making deliveries or otherwise providing services, on a temporary basis, to the said lot.

3.19 (h) Parking Area Location on Lot:

Notwithstanding the yard and setback provisions of this By-law to the contrary, uncovered surface parking area shall be permitted in the required yards or in the area between the road or street line and the required setback provided no part of any parking area, other than a driveway, is located closer than 2 metres (6.56 ft) to any front or exterior lot line and no closer than 1 metre (3.28 ft) to any rear or interior side lot line.

3.20 Parking and Produce Stands

Applications for roadside produce stands on roadways other than Regional Roads and Provincial Highways are to be filed with the Building Department and must be accompanied by a drawing illustrating the proposed establishment. If approved, the following provisions must be adhered to:

- (a) Each stand placed adjacent to a highway must be located off the Right-of-Way or Road Allowance.
- (b) Off-street parking spaces must be provided in accordance with Section 3.19 of this By-law. (*By-law 500M-76*)

- (c) A minimum clear vision of 300 ft must be provided and maintained at the entranceway of each produce stand.
- (d) A produce stand must not be placed within 50 ft of any intersection.
- (e) Any permanent building or structure is subject to local zoning regulations and will require off street parking. Seasonal and Temporary Stands may provide parking in compliance with The Highway Traffic Act.

3.21 Public Use

- (a) Nothing in this By-law shall prevent the use of any land as a school, public park, community park, playground, road allowance, or as a site for a statue, monument, cenotaph, fountain or other memorial or ornamental structure.
- (b) The provisions of this By-law shall not apply to the use of structures for the purposes of the public service by the Corporation, the Regional Municipality of Niagara, or by any local board thereof as defined by the Department of Municipal Affairs Act, R.S.O. 1970, Chapter 118, or any telephone or telegraph company, any natural gas, transmission or distributing company, any conservation authority established by the Government of Ontario, any department of the Government of Ontario or of Canada, including the Hydro Electric Power Commission of Ontario provided that where such land, building or structure is located in any zone:
 - (i) no goods, material or equipment shall be stored in the open except as permitted in such zone;
 - (ii) the lot coverage and yard requirements described for such zones shall be complied with; and
 - (iii) any above ground use carried on under this paragraph in any Residential Zone shall be enclosed in a building designed and maintained in general harmony with residential buildings of the type permitted in such zone.

3.22 Reduction of Requirements

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

3.23 Setbacks from Road and Street

Notwithstanding the requirements contained in this By-law for minimum front or external side yards, a minimum setback shall be maintained on all roads and streets in accordance with the provisions of Schedule 'F'; - Setback Regulations.

3.24 Sight Triangle

On a corner lot within the sight triangle no hedge, shrub, tree or fence shall be planted, maintained or erected which will obstruct the vision of vehicular traffic.

3.25 Signs

The provisions of this By-law shall not apply to prevent the erection, alteration or use of any sign provided such sign complies with the By-laws of the Corporation regulating signs.

3.26 Special Uses Permitted

The following uses are permitted in all zones within the Town:

- (a) temporary camps used in the construction of public works but only for so long as it is necessary for such works as may be constructed adjacent to the camp and only until such time as the work is completed, or abandoned and providing that such camps are not used for human habitation.
- (b) a tool shed, scaffold or other building or structure incidental to construction on the premises where it is situate and only for so long as it is necessary for the work in progress and until the work is completed or abandoned.

"Abandoned" in this Section shall mean the failure to proceed expeditiously with the construction of a work, specifically abeyance of construction for six months.

3.27 Through Lot

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

3.27A Uses Prohibited in All Zones

Notwithstanding any provisions of this By-law to the contrary no land, building or structure shall be used and no person shall permit the use of any land, building or structure for any of the following uses unless specifically zoned and provided for by an amending By-law:

- Adult Entertainment Parlour

3.28 Yard and Setback Encroachments Permitted

(a) Ornamental Structure

Notwithstanding the yard and setback provisions of this By-law to the contrary, sills, belt courses, chimneys, cornices, eaves, gutters, parapets, pilasters or other ornamental structures may project into any required yard or the area between the road or street line and the required setback a maximum distance of 2 ft. Bay/cantilevered windows are not permitted encroachments and are not considered ornamental structures. *(By-law 500PE-01)*

(b) Accessory Structure

Notwithstanding the yard and setback provisions of this By-law to the contrary, drop awnings, clothes poles, flag poles, garden trellises, fences, retaining walls, signs, or similar accessory uses erected in accordance with the By-laws of the Corporation regulating signs shall be permitted in any required yard or in the area between the road or street line and the required setback.

(c) Unenclosed & Uncovered Porch, Deck, Balcony, Patio or Steps:

Notwithstanding the yard and setback provisions of this By-law to the contrary, an unenclosed and uncovered porch, deck, balcony, patio or steps may project into any required front or rear yard a maximum distance of 1.5 metres (4.92 ft) and 0.6 metres (1.97 ft) in a required side yard provided that in the case of a porch, or steps such uses are not more than 1.8 metres (6 ft) above grade. *(By-law 500GD-91)*

(d) Fire Escape

Notwithstanding the yard and setback provisions of this By-law to the contrary, an unenclosed fire escape and the structural members necessary to its support, may project into any required yard or setback a maximum distance of 4 ft.

(e) Private Garage

Notwithstanding the front yard or setback provisions of this By-law to the contrary, where a dwelling house is permitted on a lot, the general elevation of which is above the street level, a private garage shall be permitted in the required front yard or in the area between the street line and the required setback, provided the roof of such garage is not more than 2 ft above the general elevation of the lot at the front building line.

(f) Gate House

Notwithstanding the yard and setback provisions of this By-law to the contrary, in an Industrial (M) Zone, a gate house having no more than 150 square feet shall be permitted in a front or side yard or in the area between the street line and the required setback.

(g) Building in Built-up Area

The minimum front setback required by this By-law in a residential class may be reduced provided that the proposed dwelling is between two existing dwellings not more than 90 m (295.27 ft) apart on abutting lots and the setback is not less than the average existing setback of the two existing dwellings. *(By-law 500GD-91)*

3.29 Landscaped Open Space *(changed to 3.13A per By-law 500GD-01)*

3.30 Open Space Setback

Where an Industrial Zone abuts an Open Space Zone, the minimum setback for any building or structure within the Industrial zone from the limit of Open Space zone shall not be less than 7.5 metres. *(By-law 500FY-91)*

3.31 Restaurant Outdoor Patio *(By-law 500GV-92)*

Where a Restaurant Outdoor Patio is a permitted use the following provisions shall apply:

- (a) the maximum area of the outdoor patio shall be equal to not more than 50% of the floor area of the restaurant to a maximum size for an outdoor patio of 90 m²;
- (b) off street parking shall be provided at the rate of one space for every 30 m² of outdoor patio area;
- (c) outdoor patios shall be set back a minimum of 20 metres from any residential zone;
- (d) outdoor patios shall be screened from view from any residential zone;
- (e) outdoor patios shall operate between 8 a.m. and 11 p.m.;
- (f) outdoor patios shall operate seasonally from March 1 to October 31 each calendar year;
- (g) all outdoor patio lighting shall be deflected away from any residential area;
- (h) outdoor entertainment, public address systems or music shall not be permitted in conjunction with a restaurant outdoor patio;
- (i) the surface of an outdoor patio shall be limited to a maximum height of one metre above grade.

3.32 Wind Energy Systems *(By-law 500UP-08)*

Where a wind energy system is defined as a permitted use the following provisions shall apply:

- (a) All wind energy systems shall be subject to site plan control.

- (b) Shadow flicker experienced at any Point of Reception shall not exceed 30 hours per year, modeled based on the worst case conditions, as a result of the operation of a wind energy system.
- (c) All Wind Energy Systems are subject to the provisions of Section 3.13-1 of this by-law regarding Niagara District Airport Height Exceptions.
- (d) No advertising sign or logo shall be visible on any turbine.
- (e) A maximum of 1 wind energy system per property is permitted. The number of Micro, Small and Medium Scale turbines per property may be subject to a zoning by-law amendment depending on the particular aspects of a proposal discussed during pre-consultation with the Town.
- (f) New wind energy systems must be set back from a King's highway or controlled access highway a minimum distance equal to the distance of the height of the turbine plus the length of the blade.
- (g) For all other road allowances outside of the control of the Ontario Ministry of Transportation, new or expanded wind energy systems must be setback a minimum distance equal to 1.25 times the height of the turbine.
- (h) All new structures (above or below grade) shall be setback a minimum of 14 metres from the property line of a Provincial highway property line as required by the Ontario Ministry of Transportation.
- (i) Building permits for wind energy systems shall be referred to the Ontario Ministry of Transportation, whose area of permit control extends 45 metres from the limit of a King's Highway or controlled access highway or within 400 metres of the centre point of an intersection with a King's Highway.
- (j) Building permits for all small, medium and large scale wind energy systems shall be referred to Transport Canada for obstacle and lighting clearance.
- (k) No wind energy system is permitted within lands operating under a mineral/aggregate extraction license.
- (l) No wind energy system shall be located on a property within a designated heritage district or containing a designated heritage building. Furthermore, any property adjoining a heritage district or property containing a designated heritage building shall not have a wind energy system.

3.32.1 Micro Scale Wind Energy Systems (By-law 500UP-08)

Micro Scale Wind Energy Systems are permitted in all zones and:

- (a) Shall not exceed 16.6 metres in height.
- (b) Shall not exceed a sound level limit of 45 dBA at the property limit within all recognized settlement areas except for Niagara Old Town. In all other areas and the settlement area of Niagara Old Town, a sound level limit of 40 dBA shall not be exceeded at the property line.
- (c) Within residential zones, shall not utilize freestanding Wind Turbines (including those using guy wires) and shall be located on or directly supported by an existing building.

- (d) In all zones other than residential, shall be setback a minimum of the Turbine Height from any side or rear boundary unless located on or directly supported by an existing building.
- (e) Where supported by or located on an existing building in a residential zone, wind turbines shall be located towards the rear and/or sides of the existing building.
- (f) Shall be contained within the rear yard setback unless located on an existing building.

3.32.2 Small Scale Wind Energy Systems (By-law 500UP-08)

Small Scale Wind Energy Systems are permitted in any agricultural or industrial zone and:

- (a) Shall not exceed 36 metres in height.
- (b) Shall be permitted to have a zero (0) metre setback to the common boundary of participating properties forming part of a small scale wind energy system proposal.
- (c) Shall not exceed a sound level limit of 45 dBA at the property limit within all recognized settlement areas except for Niagara Old Town. In all other areas and the settlement area of Niagara Old Town, a sound level limit of 40 dBA shall not be exceeded at the property line.
- (d) Shall be setback a minimum of the Turbine Height from any side or rear boundary.
- (e) Shall be setback a minimum 2.5 times the Turbine Height from any significant built heritage resource or cultural heritage landscape as shown on Schedule "I" of the Official Plan.

3.32.3 Medium Scale Wind Energy Systems (By-law 500UP-08)

Medium scale energy systems are not permitted in any zone without a site specific zoning by-law amendment.

3.32.3 Large Scale Wind Energy Systems (By-law 500UP-08)

Large scale energy systems are not permitted in any zone without a site specific zoning by-law amendment.

3.33 Estate Winery (By-law 500IO-94)

In addition to the uses permitted in a Rural (A) Zone or Rural Residential (RR) Zone, Estate Wineries may be permitted subject to a site specific zoning by-law amendment and the following guidelines:

- (a) The minimum acreage for an Estate Winery shall be established in the site specific amendment to the Zoning By-law and shall generally be a contiguous lot of at least 8 hectares (20 acres) the majority of land being in full vineyard production. This acreage is required to provide a rural setting for the winery,

land for the ponding of waste water and associated vineyards. Proposals for lesser acreage will be considered where it is demonstrated that the proponent can comply with the other guidelines and that the reduced area will not jeopardize the rural image of an Estate Winery.

- (b) Off-street parking for an Estate Winery shall be provided at the rate of one (1) parking space per employee.
- (c) Minimum lot frontage shall be 45 metres (147.6 feet).
- (d) Minimum building setback from all property liens shall be 15 metres (49.2 feet).
- (e) Maximum lot coverage for all buildings is 15%.
- (f) Maximum building height 11 metres (36 feet).

Secondary Uses

The following secondary uses may be permitted in a site specific zoning by-law for an Estate Winery:

- (a) The retail sale of wine.
- (b) A hospitality room as defined in the Zoning By-law.
- (c) An agricultural market as defined in the Zoning By-law.
- (d) The maximum total floor area for all secondary uses shall generally be limited to 400 square metres (4,305 square feet) with each individual secondary uses not exceeding 139.3 square metres (1,500 square feet).
- (e) The off-street parking requirement for all secondary uses shall be one (1) parking space for every 18.5 square metres (199 square feet) of floor area devoted to the secondary use.

3.34 Farm Winery (By-law 500IO-94)

Within any Rural (A) Zone or Rural Residential (RR) Zone, a Farm Winery shall be permitted subject to the following provisions:

- (a) All wines produced shall be from fruit grown exclusively on the same lot as the farm winery.
- (b) The retail sale of wine shall be permitted subject to normal licensing requirements. The maximum floor area devoted to the sale of wine shall be 18.5 square metres (199 square feet) provided it does not conflict with any minimum requirement for licensing.

3.35 Group Home: (By-law 500MT-99)

The following types of 'group homes' or similar facilities approved by the Province of Ontario and licensed by the Municipality shall be permitted to establish in any residential zone or residence in the Town of Niagara-on-the-Lake:

- (1) Approved Home: means a supervised community-based group living arrangement for patients of Provincial psychiatric hospitals who at certain stages

in their recovery, can benefit from a family oriented living arrangement in the community.

- (2) Home for Special Care: means a supervised community-based group living arrangement for individuals whom, upon discharged from Provincial psychiatric hospitals or Regional centres for developmentally handicapped require a sheltered living arrangement.
- (3) Supportive Housing Programs, Adult Community Mental Health Programs: means a supervised community-based group living arrangement for psychiatric or former psychiatric patients who lack the requisite life skills or the emotional stability to manage under less supportive living arrangements.
- (4) Children's Residence: means a licensed, supervised community-based group living arrangement for children under the age of 18 years whose needs cannot be met while living with parents or with other relatives. PROVIDED that no such residence shall include any child convicted under the Young Offenders Act who has been sentenced to a period of open custody of two years or more.
- (5) Accommodation Services for the Developmentally Handicapped: means a supervised community-based group living arrangement for developmentally handicapped adults and children who have previously been living in the community or in a facility for developmentally handicapped persons.
- (6) Satellite Residences for Seniors: means a community-based group living arrangement for individuals over the age of 60 who are referred to satellite residences by municipal Homes for the Aged.
- (7) Homes for Physically Disabled Adults: means a community-based group living arrangement for physically handicapped adults.

Halfway houses for the socially disadvantaged, halfway houses for alcoholics, halfway houses for ex-offenders and community resource centres are not permitted except by a site-specific amendment to the Zoning By-law.

3.35.1 Where a 'group home' is permitted, the following provisions shall apply:

- (a) A maximum of 6 (six) persons are permitted in a 'group home' located in a residential zone, where the subject lands are serviced by municipal sanitary sewers, exclusive of staff or the receiving family. In a rural zone or any residential zone where the lot is 1 acre or more in size and not provided with municipal sanitary services the maximum number of residents permitted is 10 (ten) exclusive of staff or the receiving family;
- (b) To prevent undue concentration of 'group homes' in one location a minimum separation distance shall be required between group homes measured from the nearest property lines of 460 m (1,509 ft);
- (c) All 'group homes' shall be subject to the requirements of the zone in which they are located;
- (d) Parking Requirements:

- (i) 1 parking space for every staff member for the 'group home' with stacked parking to a depth of one vehicle permitted in a driveway;
 - (ii) Visitor Parking is at the rate of 1 visitor parking space for group homes having up to 6 residents and 2 visitor parking spaces for group homes have more than 6 residents;
- (e) A 'group home' shall not be permitted in combination with any other type of accommodation such as roomers and boarders, accessory apartments or small scale tourist accommodation;
- (f) 'Group Homes' facilities must obtain an annual license pursuant to Section 257.2 of the Municipal Act, R.S.O. 1990, from the Municipality and pay an annual licensing fee to the Municipality in order to operate each and every year.

3.36 Reduced Setbacks (By-law 500PE-01)

Where the front, side or rear setback of an existing building has been reduced by the conveyance to or the expropriation by any authority having the power of expropriation such setback is deemed to comply with the setback requirements of the Zoning By-law but any new construction including additions and alterations must comply with the setback requirements of the applicable zone.