

SECTION 5 - GENERAL PROVISIONS

5.1 INTERPRETATION

5.1.1 General

a) Minimum Requirements

In interpreting and applying the provisions of this By-law, they are held to be the minimum requirements for the promotion of the health, safety, comfort, convenience, and general welfare of the inhabitants of the Municipality.

Except for those specifically stated as being maxima, any numerical figures in this By-law shall be the minimum requirements.

b) Meaning of Use

Unless the context otherwise requires, the expression "use" or "to use" in this By-law shall include anything done or permitted to be done by the owner or occupant of any land, building, or structure, directly or indirectly or by or through any trustee, tenant, servant, or agent, acting for or with the knowledge or consent of such owner or occupant, for the purpose of making use of the said land, building or structure.

c) Meaning of Shall

In this By-law, the word "shall" shall always be construed as mandatory.

d) Meaning of Building or Structure

A "building" or "structure" as defined herein shall include any part thereof.

e) Number and Gender

In this By-law, unless the contrary intention appears otherwise, words importing the singular number or the masculine gender only shall include more persons, parties, or things of the same kind than one, and females as well a males, and the converse.

5.1.2 Specific Use Regulations for Defined Areas

To each defined area within any zone there shall apply such specific use regulations as may be established by this By-law with respect to such defined area and, in addition to such special use regulations, all provisions of this By-law including the general regulations applicable to the zone within which the defined area is located shall apply to the defined area; provided that, unless a contrary intention appears from the specific use regulations,

- a) If the specific use regulations are different from the corresponding regulations of this By-law, including the general regulations applicable to the zone within which the defined area is located, the specific use regulations shall supersede and prevail over such corresponding regulations of this By-law;
- b) If the specific use regulations establish one or more specifically permitted uses for the defined area, such permitted use or uses shall be the only purpose or purposes for which the defined area may be used; and
- c) If the specific use regulations specifically permit one or more uses in addition to those otherwise permitted in the zone within which the defined area is located, any and all of the other specific use regulations applicable to the defined areas shall apply only to the additional permitted use or uses and not to uses otherwise permitted in the zone.

5.2 APPLICATION

The provisions of this section shall apply to all zones and defined areas except as may otherwise be indicated.

5.3 STREET FRONTAGE REQUIRED

No person shall erect any building or structure unless the lot upon which such building or structure is to be erected has lot frontage upon a street which has been assumed and maintained in such a manner so as to permit its use by vehicular traffic by the Municipality, the County, the Province of Ontario or some other road authority, provided that a building or structure may be erected upon a lot within a registered plan of subdivision in accordance with the provisions of a Subdivision Agreement in respect of such plan of subdivision notwithstanding that the streets within such plan of subdivision have not been assumed and are not being maintained by the Municipality, County, Province or some other road authority.

5.4 YARD AND OPEN SPACE PROVISIONS FOR ALL ZONES

No part of a yard or other open space required about any building for the purpose of complying with the provisions of this By-law shall be included as a part of a yard of other open space similarly required for another building.

5.5 LAND WITHOUT BUILDINGS

Where land is used for or in connection with residential, commercial or industrial or institutional uses but without any buildings or structures thereon, all yards required by the By-law on a lot in the respective zone shall be provided and maintained as yards and the applicable regulations shall apply, except where the land or lot is used for gardening or open space purposes not prohibited by this By-law in such zone.

5.6 PERMITTED ENCROACHMENTS IN YARDS

5.6.1 Every part of any yard required by this By-law shall be open and unobstructed by any structure other than a fence, from the ground upward, provided however:

- a) That those structures listed in the following table shall be permitted to project into the yards indicated for the distances specified:

<u>Structure</u>	<u>Yard in which projection is Permitted</u>	<u>Max. Projection Permitted into the Required Yard</u>
i) Sills, belt courses, cornices, eaves, gutters, chimneys or pilasters	Any yard	0.75 metres (2.46')
ii) Fire escapes and above or below grade exterior staircases	Rear yard only	1.5 metres(4.92') over a maximum width of 4.5 metres (14.76').
iii) Window bays and awnings	Front and rear yards and a side yard abutting a public street only	1 metre (3.28') over a maximum width of 3 metres (9.84')
iv) Balconies	Front and rear yards and a side yard abutting a public street for single family dwellings	1.5 metres (4.92')
v) Open, roofed porches not exceeding one storey in height; uncovered terraces	Rear yard only	2.5 metres (8.20') including eaves and cornices
vi) Free-standing outdoor furnace and air conditioning units	Rear yards only	1.5 metres (4.92')

- vii) steps not exceeding 1 metre in width Front & Rear yard only 1 metre (3.28')

- b) A fence, lattice work screen, or wall not more than 1.8 metres (5.91') in height or a hedge or thick growth of shrubs maintained so as not to exceed 1.8 (5.91') metres in height, may be located in any required side yard or rear yard, but shall not be more than 1.2 metres (3.93') in height when located in the required front yard or, for corner lots only along an exterior lot line, 1.0 metre (3.28') in height for that portion of the fence, lattice work screen, or wall which is in the required front yard, and 1.8 metres (5.91') for the remainder of the fence, lattice work screen, or wall. This height provision shall not apply to farm lands, industrial lands or to prevent the erection of an open mesh fence enclosing a school site, public or private park site, and other institutional or recreational properties.

- c) Any accessory use, building or structure, shall be permitted in any yard, in any zone, in accordance with the requirements for Accessory Uses (Section 5.27) and any other specific requirements defined elsewhere in this By-law.

- d) Landscaping is a permitted use in any yard in any zone in the within By-law.

- e) Parking areas shall be permitted in any yard, in any zone, in accordance with the Standards for Parking Areas (Section 5.34) and Special Parking Provisions for Residential Zones (Section 5.35) and any other specific requirements defined elsewhere in this By-law.

- f) Notwithstanding the yard and setback provisions of this By-law to the contrary, a railway spur shall be permitted within any required yard in an industrial zone.

5.6.2 OUTDOOR FURNACE AND AIR CONDITIONING UNITS

Notwithstanding any other provisions of this By-law, a free-standing outdoor furnace or free-standing outdoor air conditioning unit, or both, shall be prohibited in the front yard and in any required side yard as defined in the applicable zone.

5.7 TEMPORARY CONSTRUCTION USES

The temporary use of buildings and structures incidental and necessary for construction work will be permitted in all zones and defined areas for a period of 6 months from the date of issuance of the building permit. At the expiry of the 6 month period, and if construction is not yet complete, Council shall review the matter and consider approval of an extension where warranted.

5.8 OCCUPANCY OF PARTIALLY COMPLETED DWELLINGS

No new residential building shall be occupied before the main side walls and roof have been erected and the external siding and roofing have been completed, and before kitchen and heating facilities and sanitary conveniences have been installed and are in satisfactory working order as determined by the Chief Building Official.

5.9 NON-COMPLIANCE WITH MINIMUM LOT OR YARD REQUIREMENTS

Where an existing building or structure is located on a lot having less than the minimum frontage or area required by this By-law, or has less than the minimum setback, front yard, side yard, rear yard, or floor area required by this By-law, the said building or structure may be enlarged, reconstructed, repaired, renovated or replaced provided that:

- a) it is a permitted use, building or structure within the zone or defined area in which it is situated,
- b) the reconstruction, repair or renovation of existing buildings or structures, or any part thereof, does not further reduce an existing setback, front yard, side yard, rear yard, or floor area having less than the minimum required by this By-law,
- c) any new addition or enlargement complies with the minimum setback and yard requirements of the applicable zone,
- d) any replacement on other than the original foundation complies with the minimum setback, yard and floor area requirements of the applicable zone, and
- e) all other applicable provisions of this By-law not specifically referred to in this subsection are complied with.

5.9.2 Where the movement of the top of bank of a watercourse changes a zone or defined area boundary according to the provisions of subsections 4.8.6 and 4.8.9 and such change results in a situation whereby a building or structure previously complying to the provisions of this By-law does not then comply, the affected building or structure shall be exempted from compliance with such provision(s) as is (are) thereby offended.

5.9.3 The provisions of subsection 5.9.2 above apply, with due alteration of detail according to the context, to buildings affected by the movement of the top of bank of a municipal drain or watercourse referred to in subsection 5.39.

5.10 NON-CONFORMING USES

The provisions of this By-law shall not apply:

5.10.1 to prevent the use of any lot, building or structure for any purpose prohibited by this By-law if such lot, building or structure was lawfully used for such purpose on the date of passing of this By-law, providing such use has been continuous since that date; or

5.10.2 to prevent the erection or use for a purpose prohibited by this By-law of any building or structure, for which a permit has been issued under Section 5 of the Building Code Act prior to the date of the passing of this By-law, 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 permit has not been revoked under Section 6 of the Building Code Act.

5.11 EXISTING LOTS

An existing lot having less than the minimum frontage or area required by this By-law may be developed for all uses in the appropriate zone provided all other regulations of this By-law are satisfied; and:

- a) such lot could have been legally conveyed on the date of passing of this By-law without consent under Section 49 of The Planning Act, S.O. 1983, as amended from time to time. Lots created by consent on or before the passing of this By-law and granted subject to the fulfilment of specific conditions shall also be considered as being legally conveyable for the purposes of this subsection;
- b) such lots are serviced by municipal piped water and sanitary sewage disposal facilities or meet the requirements of the Ministry of the Environment or its designated agent;
- c) such lots front on a road;
- d) such lots have a minimum frontage of 12 metres (39.37').

5.12 USES PERMITTED IN ALL ZONES

5.12.1 Streets and Installations

Nothing in this By-law shall prevent land to be used as a street or prevent the installation of a watermain, sanitary sewer main, storm sewer main, gas main, pipe line or overhead or underground hydro, telephone, television or other supply line or communication line.

5.12.2 Railway Right-of-Ways

Nothing in this By-law shall prevent land to be used as an existing railway right-of-way, including any accessory buildings or structures thereto.

5.12.3 Existing Agricultural Uses

Existing agricultural uses shall be permitted in all residential, commercial and industrial zones until such time as redevelopment for the permitted uses the lands are zoned for occurs.

5.13 PERMITTED PUBLIC USES

The provisions of this By-law shall not apply to the use of any land or to the erection or use of any building or structure for the purpose of public service by The Corporation of the Township of Sandwich South or by any local Board thereof as defined by The Municipal Act, Chapter 302, R.S.O. 1980, the Corporation of the County of Essex, any department of the Government of Ontario or Canada, or any telephone, telegraph or communications company or gas company or Ontario Hydro, provided that:

- a) the lot coverage, setback and yard requirements prescribed for the zone in which such land, building or structure is located shall be complied with;
- b) no goods, material, or equipment shall be stored in the open in a residential zone, or in a lot adjacent to a residential zone;
- c) any building erected or lot used in a residential or agricultural zone under the authority of this paragraph shall be designed and maintained in general harmony with residential buildings and uses of the type permitted in the zone;
- d) any parking and loading regulations for these uses are complied with.

5.14 MOBILE HOMES

Mobile homes shall be prohibited within the Municipality except where specifically listed as permitted uses within a particular zone or defined area.

5.15 TRUCK, BUS AND COACH BODIES OR TRAILERS OR TENTS USED FOR HUMAN HABITATION, OFFICE OR STORAGE PURPOSES

- a) No truck, transport trailer, bus, coach or streetcar body shall be used for human habitation within the Municipality whether or not the same is mounted on wheels.
- b) No trailer, as defined in Section 3 of this By-law, or tent shall be used for the living, sleeping or eating accommodation of persons within the Township of Sandwich South for a period of more than 60 days in any period of 10 consecutive months, unless such trailer or tent is located in a tourist camp or trailer camp licensed by the Municipality under The Municipal Act, R.S.O. 1980.
- c) No bus, coach or street car body, tent, trailer or mobile home, as defined in Section 3 of this By-law, shall be used as a permanent office or for storage purposes, within the Municipality. This does not prevent the use of a transport trailer for storage. However, storage in a transport trailer is prohibited in any residential zone except in the circumstance noted under Section 5.7.
- d) No truck shall be parked and used for wholesale or retail sale of goods, articles or things for a period of more than 30 days within the Municipality.

5.16 PROHIBITED USES

- 5.16.1 It shall be prohibited to use any land or to erect and use any building or other structure in any zone or defined area for the purpose of wrecking yards, automobile salvage yards, a waste disposal site or processing facility, a pit a quarry, the collection of rags, junk, any refuse, scrap iron, or other scrap metals unless such uses are specifically listed as permitted uses within a particular zone or defined area.
- 5.16.2 The keeping of derelict automobiles that are in a wrecked, discarded, dismantled, inoperative or abandoned condition and the storing of automobiles for the purpose of salvaging parts therefrom is prohibited, unless specifically listed as a permitted use within a particular zone or defined area.
- 5.16.3 Uses not listed as permitted uses in a zone or defined area in this By-law shall be prohibited in such zone or defined area.

5.17 DANGEROUS USES AND DANGEROUS SITUATIONS

- 5.17.1 No land, building or structure shall be used in the Municipality for the industrial manufacture, storage or distribution of coal oil, rock oil, fuel oil, burning fluid gas, naphtha, benzene, gasoline, dynamite, dualene, nitroglycerine, gunpowder, petroleum products or other combustible or inflammable or liquid material which is likely to create danger to health, or danger from fire or explosion, except as otherwise provided for in this By-law.
- 5.17.2 No land, building or structure shall be used in the Municipality which by its nature or use is likely to create a dangerous situation with regards to health, traffic or pedestrian safety, or danger from fire or explosion.

5.18 NOXIOUS USES

Any use is prohibited which by its nature or by the materials used therein is declared under The Public Health Act, R.S.O., 1980, or The Environmental Protection Act, R.S.O., 1980, or any regulations thereunder, to be a noxious or offensive trade, business or manufacture.

5.19 SIGHT VISIBILITY TRIANGLES

a) On Corner Lots

Notwithstanding any other provisions of this By-law, within the triangular space included between the street lines for a distance of 9 metres (29.53') from the point of intersection, no building or structure including a fence or sign shall be erected and no shrubs or foliage shall be planted or maintained which obstruct the view of a driver of a vehicle approaching the intersection above a height of 0.6 metres (1.96') above the centreline grade of the intersecting streets.

b) At Railway Grade Crossings

In all zones, on a lot abutting a railway where the railway and a street intersect at the same grade, no building or structure including a fence or sign shall be erected and no shrubs or foliage shall be planted or maintained in such a manner which obstructs the view of a driver of a vehicle approaching the intersection above a height of 0.6 metres (1.96') above the centreline grade of the intersecting street in the triangular area bounded by the right-of-way limit of the railway and the street line and a line from the points along such right-of-way limit and such street line distant 30 metres (98.43') from the point of the intersection thereof.

5.20 SETBACKS ON ALL ROADS

Notwithstanding any other provisions of this By-law, when a building is being proposed in any zone on a road which is less than 20 metres (65.61') wide, the building must have a setback of 10 metres (32.81') plus the required front yard or side yard for that zone.

5.21 SETBACKS ON COUNTY ROADS

Notwithstanding any yard or setback provision of this By-law to the contrary, no part of any building or structure erected hereafter shall be closer than the setback to the centreline of a County road as prescribed in By-law 2480, as amended, of the County passed pursuant to The Public Transportation and Highway Improvement Act, R.S.O. 1980.

5.22 SETBACKS ON PROVINCIAL HIGHWAYS

Notwithstanding any setback or yard provisions of this By-law to the contrary, no part of any building or structure erected hereafter shall be closer than the setback to the centreline of a Provincial highway as prescribed by the Ontario Ministry of Transportation and Communications in a permit issued pursuant to The Public Transportation and Highway Improvement Act, R.S.O. 1980, as amended from time to time.

5.23 SEPARATION OF DWELLINGS FROM RAILWAYS

No dwelling shall be erected closer than 30 metres (98.42') to the right-of-way limit of a railway; provided, however, that this requirement shall not apply to any dwelling existing on the date of passing of this By-law or to an abutting vacant lot in a residential zone existing on the date of passing of this By-law and having such dimensions that application of such setback would prevent the construction of a dwelling thereon.

5.24 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:

- a) Any part of a lot which is not occupied by buildings, structures, parking areas, loading spaces, driveways, excavations, agricultural uses or permitted outdoor storage areas shall be maintained a 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 buffer 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.

5.25 BUFFER STRIPS

- a) A buffer strip shall be used for no other purpose than for the erection of a decorative fence, earth berm or the planting of a continuous row of natural evergreens or natural shrubs, immediately adjacent to the lot line or portion thereof along which such buffer strip is required hereunder; the remainder of the strip shall be landscaped and planted with ornamental shrubs, flowering shrubs, flower beds, sodded or seeded grass, or a combination thereof. Any fence shall be decorative in nature and be designed and constructed to resist wind damage (e.g. alternating slats).
- b) Where a buffer strip is required in any zone, it shall be of a minimum width as specified in the regulations for that zone.
- c) A buffer strip shall be located within the zone for which it is required; it shall be planted, nurtured and maintained by the owner of the lot on which the buffer strip is located, and the replacement of trees and plants shall be made as necessary.
- d) A buffer strip may form part of any required landscaped open space.
- e) Where required on a street corner of a corner lot or at a railway intersection, a buffer strip shall be located in such a way as not to obstruct sight visibility as provided in subsection 5.19.

5.26 HEIGHT

The height regulations of this By-law shall not apply to any ornamental dome, chimney, tower, storage silo or grain dryer or elevator, barn, cupola, steeple, church spire, water storage tank, elevator enclosure, flag pole, television or radio antennae, skylight, ventilator, electrical apparatus, solar energy collection devise, or a structure which encloses the mechanical equipment required for the operation of such building or structure.

5.27 ACCESSORY USES

Accessory uses, buildings or structures are permitted in any yard, in any zone, subject to the provisions of this By-law for the particular zone in which said building, structure or use is located, and provided that:

5.27.1 Private garages, other accessory buildings, structures or uses but not parking or outside storage areas, and accessory structures permitted in and regulated by subsections 5.27.2 and 5.6.1(b):

- a) shall not be used for human habitation, except where a dwelling unit is a permitted accessory use;
- b)
 - i) for residential zones: shall not be permitted in the front yard or side yard abutting a street in the case of a corner lot;
 - ii) for all other zones: shall not be built closer to the front lot line than the minimum distance required by this by-law for the main building on the lot;
- c) shall not be closer than 0.61 metres (2.0') to any lot line if less than or equal to 10.0 square metres (107.64'sq.) in area and 2.5 metres (8.2') in height or shall not be closer than 1.22 metres (4.0') to any lot line if greater than 10.0 square metres (107.64'sq.) in area or 2.5 metres (8.2') in height except:
 - i) that common semi-detached private garages or carports may be centred on a mutual side lot line;
 - ii) that where a lot line abuts a public alley an accessory building or structure may be located not less than 0.5 metres (1.64') from said alley.
- d)
 - i) for residential zones: shall not exceed 10 percent of total lot area or 90.0 square metres (969.0'sq.) in area, whichever is the lesser, and no individual accessory building or structure shall exceed 70.0 square metres (753.0'sq.) in area;
 - ii) for all other zones: shall not exceed 10 percent of total lot area;
- e)
 - i) for residential zones: shall not exceed 4.57 metres (15.0') in height;
 - ii) for all other zones: shall not exceed 10.67 metres (35.0') in height;
 - iii) for permitted accessory and detached dwelling units: shall not exceed 2.5 storeys in height;

- f) shall not be considered as accessory if attached to the main building in any way;
- g) shall not be located within 1.5 metres (4.92') of the main building on said lot with the exception of decks which shall be permitted to be attached to the main building;
- h) shall not be considered an accessory building if located completely underground;
- i) the following encroachment provisions shall apply to eaves and eavestroughs on accessory buildings:
 - i) for accessory buildings greater than 10.0 square metres (107.64'sq.) in area, eaves shall be allowed to encroach 0.61 metres (2.0') and eavestroughs an additional 0.15 metres (0.5') into the required setback;
 - ii) for accessory buildings less than or equal to 10.0 square metres (107.64'sq.) in area, eaves shall be allowed to encroach 0.31 metres (1.0') and eavestroughs an additional 0.15 metres (0.5') into the required setback.

5.27.2 Private outdoor swimming pools, including in-ground and above-ground pools and associated decks, may be constructed and maintained as accessory uses to a dwelling provided:

- a) said use shall only be permitted in the rear or side yards of the lot;
- b) the height of the pool or deck shall not exceed a maximum of 1.22 metres (4.0') above the average finished grade level of the ground adjoining and within 4.0 metres (13.1') of the pool or deck;
- c) said use shall not be located within 1.22 metres (4.0') of a side or rear lot line, except on a corner lot where the minimum side yard abutting a public street shall be 4.0 metres (13.1');
- d) no water circulating or treatment equipment such as pumps or filters shall be located closer than 1.22 metres (4.0') to any side or rear lot line;
- e) said use is enclosed by a fence in accordance with the Town's fence by-law, as amended;
- f) swimming pools and associated decks shall not be included in determining lot coverage.

5.27.3 Accessory buildings, structures or uses are permitted in a commercial or industrial zone in accordance with the provisions of this By-law for the particular zone in which said building, structure or use is located, provided that all applicable zone regulations and development standards which apply to a main building also apply to any accessory building or structure.

5.28 COMMERCIAL ACCESSORY USES IN INDUSTRIAL ZONES

Notwithstanding any other provision of this By-law, where a commercial use is permitted as an accessory use in an industrial zone, the floor area of the accessory use shall not exceed ten (10) percent of the total floor area of the main building, and shall not exceed a maximum floor area of two hundred and seventy-eight (278.0) square metres (2,992.5'sq.).

5.29 REGULATIONS FOR HOUSEHOLD OCCUPATIONS

Where a household occupation is permitted in a particular zone, it shall:

- a) Have members of the family permanently residing in the dwelling or dwelling unit engaged in the business, and not more than a maximum of one (1) non-family assistant may also be employed;
- b) Have no external display or advertisement other than an unlit sign which is a maximum size of 0.2 square metres (2'sq.) indicating only the name, occupation and practicing hours of the occupant;
- c) Have no external storage of materials, containers or finished products;
- d) Not change the character of the dwelling and accessory private garage as a private residence and accessory private garage or create or become a public nuisance, particularly in regard to noise, traffic, loading or unloading, or parking;
- e) Not use any mechanical equipment which would result in any undue noise, fumes, dust, or odour escaping to any adjoining premise;
- f) Not occupy more than a total of 25% of the floor area of the dwelling or dwelling unit including in the floor area any basement area used as living quarters and any basement area used for any household occupation(s) or eighteen and one-half (18.5) square metres (199'sq.) whichever is the lesser, except in the case of any workshop which shall not exceed 37 square metres (398'sq.);
- g) The location of any and all parts of household occupation use(s) on a lot shall be confined to a dwelling or dwelling unit or accessory private garage on the lot, except that any office or consulting room shall be restricted to a location in a dwelling or dwelling unit only, and any workshop shall be restricted to an accessory private garage;

- h) Have no more than 3 off-street parking spaces associated with the household occupation use(s);
- i) Include only an office or consulting room for a professional person, salesperson, or agent, an office for a trade such as a general contractor, house builder, painter, or electrician, an office for a charitable organization, a workroom for a dressmaker or tailor, or the making, weaving, sewing, spinning, repair, engraving or otherwise fabrication of clothes, and clothing accessories, sports crests, trophies, toys, garden or household ornaments, including the sale of same, upholstering and repair of furniture, a studio for a teacher of music, art or academic subjects, a photographer, commercial artist or drafting; tool sharpening, radio, television or typewriter repairs, a barber shop, a hairstylist or hairdressing establishment, florist and floral arranging and any other use similar in nature which conforms to the preceding criteria and which the Committee of Adjustment, upon application, permits.

5.30 REGULATIONS FOR AGRICULTURAL HOUSEHOLD OCCUPATIONS

Where an agricultural household occupation is permitted in a particular zone, it shall:

- a) Have members of the family permanently residing in the dwelling or dwelling unit engaged in the business, and not more than a maximum of one (1) non-family assistant may also be employed;
- b) Have no external display or advertisement other than an unlit sign which is a maximum size of 0.2 square metres (2'sq.) indicating only the name, occupation and practicing hours of the occupant;
- c) Not change the character of the agricultural building, dwelling or any accessory building thereto or create or become a public nuisance, particularly in regard to noise, traffic, loading or unloading, or parking;
- d) Not use any mechanical equipment which would result in any undue noise, fumes, dust, or odour escaping to any adjoining premise;
- e) Have no external storage of materials, containers or finished products;
- f) Any building or structure, excluding that for a residential use, used for any agricultural household occupations shall not exceed seventy (70) square metres (753.5'sq.) of total floor area. Not more than a total of 25% of the floor area of a dwelling or dwelling unit or eighteen and one-half (18.5) square metres (199'sq.) whichever is the lesser may be used in connection with any agricultural home occupation(s);
- g) Have no more than 3 off-street parking spaces associated with the agricultural household occupation use(s);
- h) Have no more than two vehicles specifically used for the agricultural household occupation(s);

- i) Include only a painting business for other than motor vehicles, basement waterproofing, carpentry shop, electrical, plumbing, radio or t.v. service establishments, a welding or machine or small tool and equipment repair shop for farm equipment and lawn and garden equipment only, a tile drainage or masonry contractor, septic tank disposal, home craft operations such as a pottery, woodworking or weaving, furniture upholstering and refinishing, a seed or agricultural products dealer, farm fuel sales, and a farm related trucking business (milk, hay), and any other use similar in nature which conforms to the preceding criteria and which the Committee of Adjustment, upon application, permits.

5.31 LOADING SPACES

No person shall erect or use any building or structure in any commercial, industrial or institutional zone which involves the movement of persons, animals, goods, merchandise, or materials unless loading spaces are provided and maintained in accordance with the following provisions:

- a) one off-street loading space maintained on the same premises with every such building, structure or use for standing, loading or unloading shall be provided for every one thousand eight hundred and fifty-eight (1,858.0) square metres (20,000'sq.) or fraction thereof of the total floor area used for any purpose in excess of two hundred and seventy-eight (278.0) square metres (2,992.5'sq.) of such area;
- b) each loading space shall have dimensions not less than three and one-half (3.5) metres (11.48') by nine (9.0) metres (29.52');
- c) each loading space shall not have less than four and one-half (4.5) metres (14.76') of vertical clearance.

5.32 STANDARDS FOR LOADING SPACES

Where in this By-law loading spaces are required or permitted:

- a) adequate driveway space to permit the safe manoeuvring, loading and unloading of vehicles on the lot such that they do not cause an obstruction or a hazardous condition on adjacent streets or sidewalks;
- b) adequate drainage facilities in accordance with the requirements of the Municipality;
- c) the loading space and approaches shall be surfaced with concrete, asphalt, crushed stone, gravel, or a combination thereof with a stable surface treated to prevent the raising of dust and loose particles, and in the case of commercial zones shall have a cement or asphaltic binder or any other permanent type of surfacing;

- d) illumination of loading spaces so arranged as to be diverted away from any adjacent residential, institutional, or parks and open space zone or use;
- e) loading spaces to be located in the rear yard where a lot has access at both the front and rear to a street or road.

5.33 PARKING REQUIREMENTS

For every type of building listed below which is erected, altered, or enlarged in any zone after the passing of this By-law, off-street parking shall be provided and maintained in accordance with the following provisions:

<u>Type of Use of Building</u>	<u>Minimum Parking Required</u>
i) single family detached including accessory dwelling units, seasonal dwellings	two (2.0) parking spaces dwelling units, per dwelling unit
ii) auditoriums, restaurants churches, theatres, arena, community private clubs, and places of assembly	one (1) parking space for every five (5) seats or fraction thereof or for centres, every three (3.0) metres (<u>9.84'</u>) or other fraction thereof of bench space of its maximum seating capacity or one (1) parking space for each nine (9.0) square metres (<u>96.88'square</u>) or fraction thereof of floor area devoted to public use, whichever is the greater
iii) hospitals, nursing home, lodging houses	one (1) parking space and for each two beds or for each forty (40.0) square metres (<u>431'sq.</u>) or fraction thereof of floor area, whichever is the greater
iv) schools	one (1) parking space for each teaching staff member or school employee plus one (1) additional parking space for each twenty (20.0) square metres (<u>215'sq.</u>) or fraction thereof of auditorium floor area
v) government buildings	one (1) parking space for each two (2) employees or fraction thereof plus one (1) parking space for each nine (9.0) square metres (<u>97' sq.</u>) or fraction thereof of floor area devoted to public use, with a minimum capacity of ten (10) visitor parking spaces

- vi) libraries a minimum ten (10) parking spaces or one (1) parking space per twenty-eight (28.0) square metres (301'sq.) or fraction thereof of building floor area, whichever is greater
- vii) hotels, motels and taverns one (1) parking space per rental unit or guest room, plus one additional parking space for each nine (9.0) square metres (97'sq.) or fraction thereof of floor area devoted to public uses such as restaurants, taverns and other eating places associated with motels and staff houses
- viii) industrial establishments one (1) parking space for establishments each ninety-three (93.0) square metres (1,001'sq.) or fraction thereof of building floor area or for each three employees or fraction thereof, whichever is greater
- ix) retail stores one (1) parking space per eighteen and one-half (18.5) square metre (199'sq.) or fraction thereof of retail floor area
- x) offices, general and professional one (1) parking space per eighteen and one-half (18.5) square metre (199'sq.) or fraction thereof of rentable office floor area
- xi) funeral homes one (1) parking space for each nine (9) square metres (97'sq.) or fraction thereof of floor area devoted to public use, with a minimum of ten (10) parking spaces
- xii) bowling alleys and curling rinks one (1) parking space for each two (2) persons of designed capacity (as hereinafter defined) of the said bowling alley or curling rink. For the purpose of this section designed capacity shall mean six (6) persons per bowling lane or eight (8) persons per curling sheet
- xiii) home occupation, one (1) parking space for

agricultural home occupation

each nine (9.0) square metres (97'sq.) of floor area devoted to said use in addition to that required for the dwelling

xiv) any uses permitted by this By-law but not specifically listed elsewhere in this Section

one (1) parking space for each eighteen and one-half (18.5) square metres (199'sq.) or fraction thereof of building floor area and one (1) parking space for each one hundred (100.0) square metres (1,076'sq.) of total area used for open storage.

xv) senior citizen housing

one (1) parking space for each dwelling unit plus one (1) parking space for each four (4) dwelling units to be designated as visitor parking spaces.

5.33a Barrier Free Parking

Within each parking area required above, barrier free parking spaces shall be provided at a location specified by the Chief Building Official or in accordance with the corresponding site plan agreement and in accordance with the following table:

Total Number of Parking Spaces In the Parking Area	Minimum Number of Parking Spaces to be Barrier Free
less than 10	0
10 to 25	1
26 to 99	2
100 to 149	3
150 to 199	4
200 and over	1 space for every 50 parking spaces

STANDARDS FOR PARKING AREAS

Where in this By-law parking areas are required or permitted:

- a) when a building or lot accommodates more than one use or purpose, the required parking spaces shall be the sum of the required parking spaces for the separate uses or purposes. Parking facilities for one use shall not be considered as providing required parking for any other use;
- b) if calculation of the required parking spaces results in a fraction, the required parking spaces shall be the next highest whole number;
- c) adequate drainage facilities shall be provided and maintained in accordance with the requirements of the Municipality;
- d) the parking area and approaches shall be surfaced with concrete, asphalt, crushed stone, gravel, or a combination thereof with a stable surface treated to prevent the raising of dust or loose particles and in the case of commercial zones shall have a cement or asphaltic binder or any other permanent type of surfacing;
- e) the lights used for illumination of parking areas shall be so arranged as to divert the light away from adjacent lots;
- f) parking areas shall either be located on the same lot as the use for which such parking is required or within ninety 90.0 metres (295.28') of the location which it is intended to serve and shall be situated in the same zone;
- g) a landscaped buffer strip with a minimum width of 3 metres (9.84') shall be provided abutting a front lot line, where a parking area is designed to accommodate more than four (4) automobiles, save and except those areas used as entrances and exits;
- h) all parking areas and their approaches in any zone shall be defined by a curb or concrete or rolled asphalt or other suitable obstruction designed to provide a neat appearance;
- i) each parking space shall be 3.0 metres (9.84') by 6.0 metres (19.69'), except for senior citizen housing where each parking space required shall be 3.6 metres by 6.0 metres (11.81'x 19.69'); and each parking space shall be provided with unobstructed access to a street by a driveway, aisle or lane. The minimum width of such driveway, aisle or lane shall be 5.5 metres (18.04') and the maximum width shall be 10 metres (32.81');
- j) a structure, not more than 3 metres (9.84') in height and not more than 4.6 square metres (49.52'sq.) in area may be erected in the parking area for the use of attendants in the area;

- k) no sign other than directional signs and a sign indicating the name of the owner, not exceeding 0.8 square metres (8.61'sq.) in size shall be erected on any parking area or parking lot.

5.35 SPECIAL PARKING PROVISIONS FOR RESIDENTIAL ZONES

- a) In any residential zone, all parking spaces shall be located in a garage or carport or in a side or rear yard, or only on a driveway in the front yard.
- b) In any residential zone, no vehicle shall be parked on any part of a lot other than in a garage, carport, required parking area or on a driveway.
- c) The parking of commercial vehicles is prohibited in residential zones except that the owner or occupant of any lot, building or structure in any residential zone may use any private garage or driveway of which he is the owner or occupant for the housing or storage of one commercial vehicle used for commercial purposes, owned or operated by himself, provided such use is for housing or storage of the vehicle only and such commercial vehicle is not used in connection with any business or other use on the premises or associated with the residence which is prohibited by this By-law in any such residential zone. Any goods, materials or contents stored on or in such commercial vehicle shall not be exposed to or be in the general view of the public. For the purposes of this paragraph, "commercial vehicle used for commercial purposes" shall only include small, light duty vans and pick-up trucks and one disengaged broker tractor cab regardless of weight capacity but the housing, storage or parking of the transport trailer either attached or not attached to a broker tractor cab is prohibited.
- d) In any residential zone, the owner or occupant and any lot may park or store a utility trailer and/or a boat, travel trailer, or other recreational vehicle provided that he is the owner of such utility trailer, boat, travel trailer, or other recreational vehicle and that such parking or storage is confined to the side or rear of the dwelling, is beyond the required minimum front yard and side yard setback as established by Section 6, 6A or 7 of this zoning by-law and is in accordance with all other regulations prescribed by this zoning by-law.

5.36 PARKING OF MOTOR VEHICLES WITHOUT CURRENT LICENCE PLATES

Notwithstanding any other provisions of this By-law, no person may use any lot in any zone for the parking or storage of any vehicle that does not have current licence plates except that one (1) such vehicle per dwelling may be stored in the open in an agricultural zone, and any number of such vehicles may be stored within a motor vehicle service establishment in a commercial zone, inside a fully enclosed private garage in a residential zone or within a building or structure in an agricultural zone. This provision shall not apply to the parking and storage of farm machinery and equipment in an agricultural zone.

5..37 DRIVEWAY REGULATIONS

- a) A driveway serving a dwelling in a residential zone shall have a maximum width of 7.62 metres (25.0') or 40 percent of the lot line abutting the street that the driveway traverses, whichever is greater, up to a maximum of 9.15 metres (30.0').
- b) The minimum distance between a driveway and a lot line shall be 0.5 metres (1.64'), save and except the lot line over which the driveway traverses.
- c) The minimum distance between a driveway and an intersection of street lines, measured along the street line intersected by such driveway, shall be 9.15 metres (30.0').
- d) The minimum angle of intersection between a driveway and a street line shall be 60 degrees.
- e) Every lot shall have a minimum of one driveway and a maximum of two driveways for any permitted use.

5.38 LANDS EXHIBITING HAZARDOUS CONDITIONS

Notwithstanding any other provisions of this By-law, no buildings or structures shall be erected or used on lands which exhibit, or potentially exhibit, a hazardous condition as a result of their susceptibility to flooding, erosion, subsidence, inundation, or the presence of organic soils or steep slopes.

5.39 SETBACKS FROM MUNICIPAL DRAINS AND WATERCOURSES

No part of any building or structure other than a fence or a hedge shall hereafter be erected in any zone or defined area closer to a municipal drain or watercourse than eight (8.0) metres (26.25') plus the depth of the drain or watercourse to a maximum of fifteen (15.0) metres (49.21'), from the top of bank, measured horizontally along a line perpendicular to a line drawn along the top of bank, or in the case where a drain or watercourse may be covered as authorized by the Council, the Township Drainage Superintendent, or a municipal engineer, the minimum setback shall be 3 metres (9.84') from the centreline of the drain or watercourse.

5.40 FLOODPLAIN DEVELOPMENT CONTROL AREA

Notwithstanding any other provision of this By-law, no building or structure or part thereof shall be erected, enlarged, or reconstructed in the Floodplain Development Control Area as depicted on Schedule "A" without a permit issued by the Essex Region Conservation Authority pursuant to Ontario Regulation No. 730-82, as amended or revised, or without a letter from the Essex Region Conservation Authority stating that a permit is unnecessary.

If at any time the extent of the Floodplain Development Control Area as depicted on Schedule "A" should be altered as defined under Ontario Regulation No. 730-82, then the extent of the Floodplain Development Control Area as depicted on Schedule "A" shall be considered similarly altered without the necessity for a formal amendment to this By-law.

Notwithstanding the generality of the foregoing, any electric power facility that satisfies the provisions of the Environmental Assessment Act shall not be required to comply with the provisions contained in Section 5.40.

5.41 NUMBER OF BUILDINGS PER LOT

- a) Not more than one main building may be erected on a lot in a Residential Zone.
- b) Unless otherwise specified to the contrary, not more than one dwelling may be erected on a lot in an Agricultural Zone.

5.42 UNLAWFUL USES

Any uses established in violation of a predecessor of this By-law will be deemed to have been established unlawfully. The passing of this By-law shall in no way render any unlawful use as lawful or legal non-conforming.

5.43 FLY ASH AND FOUNDRY SAND STOCKPILING

The stockpiling of fly ash and foundry sand is not permitted in any zone. These materials may be used for filling construction pits, quarries and other excavations in agricultural and industrial zones but the fill material shall be covered with a minimum of 1.8 metres (5.91') of stable earth up to but not above grade.

5.44 SPECIAL HEIGHT REGULATIONS - WINDSOR AIRPORT

Notwithstanding any height restrictions contained in this By-law, the erection of any building or structure in the area shown on Schedule "B" shall also comply with the height limitations as prescribed by the Department of Transport Registered Zoning Regulations for Windsor Airport (Composite Plan No. T-2586, dated at Toronto, October 3, 1968) as amended from time to time and registered in the registry office for the County of Essex.

5.45 ADULT ENTERTAINMENT PARLOURS

Notwithstanding any other provision of this By-law respecting permitted uses, an adult entertainment parlour shall not be permitted, either as a main use or as an accessory use in any zone.

5.46 PACKING AND BAILING SITE, RECYCLING CENTRE OR TRANSFER STATION

Notwithstanding any other provisions of this By-law respecting permitted uses, a packing and bailing site, recycling centre or transfer station shall not be permitted, either as a main use or as an accessory use in any zone in the municipality with the exception of the following location(s):

- i) part of Lots 12 and 13, Concession VIII, more particularly described as Parts 1 and 2, Plan 12R 9781.

5.47 REGULATIONS FOR GROUP HOME DWELLINGS

No group home, whether to be located in an existing single unit detached dwelling or in a newly constructed group home building, shall be located closer than 300 metres to any existing group home dwelling.

5.48 GREENWAY REGULATIONS

Notwithstanding any other provisions of this By-law to the contrary, the greenway as defined in subsection 3.57a of this By-law shall be permitted in any zone.