

Section 4 GENERAL PROVISIONS

Explanatory Note

The General Provisions section of the By-law states the regulations which apply regardless of the specific zoning. Whereas the zones provide site specific controls corresponding to such items as permitted uses and locational restrictions, the General Provisions provide regulations more general in nature, applying to a variety of uses regardless of zoning.

4.1 Accessory Buildings, Structures and Uses

4.1.1 Where a *lot* is devoted to a permitted *use*, customary *accessory uses*, *buildings* and *structures* are permitted provided that:

- (a) All *accessory uses*, *buildings* and *structures* to a permitted main *use* shall be located on the same *lot* and in the same *zone* as the main use.
- (b) The use of any *accessory building* or *structure* for human habitation is not permitted except where specified in this By-law.
- (c) No accessory building or structure shall be erected closer to the *front lot line* or the *exterior side lot line* than the minimum *front yard* and *external side yard* setbacks required for the *main building*. This provision shall be exempted:
 - (i) for *lots* with *water frontage*;
 - (ii) for a partially enclosed shelter not exceeding 2.32 m² (25 ft²) for use by children waiting for a school bus on *lots* equal to or greater than 0.4 ha (0.99 ac);
 - (iii) for a gatehouse required to provide security to a premises or property;
 - (iv) for detached garages and storage buildings and structures where the *main building* on the lot is setback twice the required *front yard* or *exterior side yard setback* (rural area zones only); and
 - (v) for *mineral mining operations* and *mineral aggregate operations*.
- (d) In the case of a *through lot* that is not deemed to be a *corner lot*, *accessory buildings* and *structures* are not *erected* closer to the *rear lot line* than the required *front yard setback* for those abutting *lots* that are not through lots;
- (e) Any *building* or *structure* which is attached to the *main building* shall not be considered an *accessory building* or *structure* (*Examples: garage, carport, balcony, deck*).
- (f) Except where specified otherwise, no *accessory building* or *structure* shall be erected less than 1 m (3.28 ft) to any *interior side lot line* or *rear lot line*

except for common *semi-detached garages* which may be centred on a mutual *side lot line*. No accessory building or structure shall be located less than 1 m (3.28 ft.) from a *main building* or other accessory buildings or structures located on the same lot or on an adjacent lot.

- (g) Despite paragraph (c), a *boat house*, pump house, boat port, float plane hangar, *dock* or wharf may be located in the *yard* located between the *shoreline* and the main building where a lot abuts a navigable *watercourse* or *water body*, provided that the approval of any government authority having jurisdiction has been obtained and provided that the boat house, pump house, boat port, float plane hangar, dock or wharf is located not closer than 3 m (9.24 ft) to the nearest adjacent *lot line* and does not encroach on the frontage of adjacent *lots* when the lot boundaries are extended into the water.
- (h) Despite paragraph (c), a *shoreline structure*, not including a boat house, pump house, boat port, float plane hangar, dock or wharf, or *public service use* shall be setback a minimum of 30 m (98.4 ft) from any *high water mark* or *shoreline* in any yard adjacent to a water body.
- (j) *Accessory uses, buildings and structures* shall not be *erected* or established prior to the erection or establishment of the *main building* or *use*, except:
 - (i) where it is necessary for the storage of tools and materials in connection with the construction of the main use, building or structure, and
 - (ii) where a new main use, building or structure is to be erected or established on a lot thereby making the existing main use, building or structure the accessory use, building or structure upon erection or establishment of the new main use, building or structure;

4.1.2 Swimming Pools

Private swimming pools, both above-ground and in-ground, both open and covered, including inflatable pools, shall be permitted and shall be subject to any By-law of the Township regarding swimming pools and the following requirements:

- (a) **Outdoor Open Pools**
 - (i) Open pool areas shall be totally enclosed by a fence constructed of suitable materials, having a minimum height of 1.52 m (5 ft) with a self-locking gate and shall be setback a minimum of 1.52 m (5 ft) from the pool. Where a pool is an above-ground pool, any combination of the pool wall and surrounding fence or structure totaling a minimum of 1.52 m (5 ft) in height shall be deemed to meet

these fencing requirements provided that there is a self-locking gate of equivalent arrangement to prevent unauthorized entry. (See also Section 4.10 of this By-law)

- (ii) The maximum height of an above-ground pool shall not be more than 2 m (6.56 ft) above grade.
- (iii) Any *accessory building* or *structure* required for changing clothing, for storage, for pumping or filtering or for any similar purposes, shall comply with all requirements of Section 4.1.1 and the *zone* in which it is located.
- (iv) No outdoor swimming pool shall be located in any *front yard* or *exterior side yard*.
- (v) Despite paragraph (iv), outdoor swimming pools which are *accessory* to *community centres*, *hotels* and *motels* may be located in the *front yard* or *exterior side yard* and shall meet all other requirements of this By-law.
- (vi) Outdoor swimming pools shall be setback a minimum of 1.52 m (5 ft) from all lot lines.

(b) Indoor Pools

Indoor or covered pools not located within or attached to a main building shall comply with the *accessory building* requirements of Section 4.1.1.

(c) Pools in the Flood Plain

The establishment of any swimming pool in an identified flood plain area shall be subject to the approval of the Ministry of Natural Resources or its designate.

4.2 Accessory Residential Uses

- (a) One (1) *sleep cabin* or one (1) *loft-above-a-garage* shall be permitted per lot as an *accessory use* to a permitted *dwelling* in the Lakefront Residential (R4) Zone. Lofts, where located above a garage, and sleep cabins shall not exceed 37 m² (400 ft.²) in *gross floor area*. The loft portion of a loft-above-a-garage structure shall not exceed one (1) storey.
- (b) *Sleep cabins* and *lofts-above-a-garage* shall not be considered *dwelling units* and shall not be rented out to the public for gain or profit.
- (c) *Sleep cabins* and *lofts-above-a-garage* shall not be erected on a *lot* on which a *garden suite* is located.

- (d) Despite Section 4.1.1 of this By-law, no *sleep cabin* or *loft-above-a-garage* shall be *erected* closer than 3 m (9.84 ft) to any *interior side lot line* or *rear lot line*. No sleep cabin or loft-above-a-garage shall be located less than 3 m (9.84 ft) from a *main building*.
- (e) The *erection, alteration*, enlargement or extension of any *sleep cabin* or *loft-above-a-garage* shall not exceed the maximum *lot coverage* requirement in the *zone* in which the sleep cabin or loft-above-a-garage is located.
- (f) *Apartments-in-a-house* shall be permitted as an accessory use to a *single detached* or *semi-detached dwelling* located in the McGarry Urban Settlement Area Boundary.
- (g) *Apartments-in-a-house* shall be considered *dwelling units* for the purposes of this By-law.
- (h) *Apartments-in-a-house* may be rented out to the public for gain or profit and may be subject to any licensing requirements of the Township of McGarry.
- (i) Accessory residential uses described in this Section shall not be established unless the provisions for servicing under Section 4.33 and the provisions for parking under Section 4.24 can be met.
- (j) Section 4.1 shall also apply to the establishment of accessory residential uses described in this Section.
- (k) Where permitted by a temporary use by-law under Section 39 of the *Planning Act*, a *garden suite* shall be permitted as an *accessory use* to a main *residential use* in any *residential zone* except the Multiple Residential (R2) Zone provided:
 - (i) the *lot* conforms with the zone requirements in which the garden suite is to be located;
 - (ii) the maximum *net floor area* is 74 m² (800 ft.²);
 - (iii) notwithstanding anything in this By-law to the contrary, the maximum *height* of the *garden suite* is 6 m (19.7 ft.);
 - (iv) the *garden suite* is located in a *rear* or *interior side yard* and meets the minimum *yard* and minimum *accessory use lot coverage* requirements set out in the corresponding *zone*, and is set back a minimum of 3 m (9.8 ft.) from any *rear* or *side lot line*;
 - (v) the provisions for servicing under Section 4.33 and the provisions for parking under Section 4.23 can be met.

- (l) Despite the definition of *mobile home* in this By-law, a mobile home shall be permitted as a garden suite where it meets all other requirements of this By-law.
- (m) A *garden suite* shall not be considered a *dwelling unit* for the purposes of this By-law and shall not be rented out to the public for gain or profit.
- (n) A garden suite shall not be erected on a *lot* on which a *sleep cabin* or *loft-above-a-garage* is also located.
- (o) *Accessory dwellings* may be permitted as accessory uses to commercial and industrial uses in accordance with the Additional Provisions of the respective *zone*.

4.3 Automobile Service Stations and Gasoline Bars

Where *automobile service stations* and *gasoline bars* are permitted in this By-law, and notwithstanding any other provisions of this By-law to the contrary, the following provisions shall apply:

- (a) The minimum *lot frontage* for any *interior lot* shall be 35 m (114.83 ft) and the minimum frontage for a *corner lot* shall be 40 m (131.23 ft) at the *exterior side lot line* and 35 m (114.83 ft) at the *front lot line*.
- (b) The minimum distance between any portion of the gasoline pump island and any *lot line* shall be 4.50 m (14.76 ft).
- (c) Where the lot is a *corner lot*, no portion of any gasoline pump island shall be located closer than 3.05 m (10 ft.) to a *sight triangle*.
- (d) The width of any entrance or exit *driveway* or combined entrance or exit driveway measured at the front lot line or exterior side lot line shall not be greater than 9 m (29.53 ft) and there shall not be more than two (2) driveways per *lot*.
- (e) The minimum distance between *driveways* measured along the *street line* intersected by such driveways shall be 8 m (26.25 ft).
- (f) The minimum distance between a *driveway* and intersection of street lines, measured along the street line intersected by such driveway, shall be 9 m (29.53 ft).
- (g) The minimum distance between an *interior side lot line* and any *driveway* shall be 3 m (9.84 ft).
- (h) A minimum of 1 m (3.28 ft) of *landscaped open space* shall be provided along any *lot line* abutting a *street*, and such landscaped open space shall be continuous, except for *driveways* or walkways for accessing the *lot*.

4.4 Bed and Breakfast Establishments

A *bed and breakfast establishment* shall be permitted as an *accessory use* to a permitted *single detached dwelling* in any *zone* subject to the following requirements:

- (a) Bed and breakfast establishments are not subject to the *home based business* requirements of Section 4.14 of this By-law.
- (b) The operation of a bed and breakfast establishment shall be incidental and secondary to the main *use* of the single detached dwelling. The use of the *dwelling* as a bed and breakfast establishment shall not change the residential character of the dwelling.
- (c) The requirements for the provision of off-street *parking spaces* shall be met in accordance with Section 4.23.
- (d) The requirements of the local Health Unit, where applicable, shall be met.
- (e) One (1) *sign* may be permitted to advertise the bed and breakfast establishment. Such sign shall not exceed 1 m² (10.76 ft²) in surface area and shall not be back-lit. The permitted sign may be a freestanding sign in a *front* or *side yard* or may be attached to a wall of a permitted *building* or *structure*. The sign may be illuminated by lights where the illumination is directed directly onto the sign and does not create a glare on adjacent properties (See also Section 4.15). Signs may also be subject to any Sign By-law as may from time to time be enacted by the Township under the *Municipal Act*.
- (f) The bed and breakfast establishment shall only employ or be operated by persons whose principal residence is the *dwelling unit* containing the bed and breakfast establishment;
- (g) A breakfast service shall be provided to guests.
- (h) The building in which the bed and breakfast establishment is located shall comply with all applicable Building Code and Fire Code regulations.

4.5 Buildings to be Moved

A *building* or *structure* may be moved within or into the Township of McGarry provided a permit is first obtained from the *Chief Building Official*, and the building or structure is a permitted *use* and meets all relevant requirements of this By-law.

4.6 Camps (Hunt Camps, Fishing Camps)

- (a) Where a *camp* is to be established as an *accessory use* to a *dwelling* on the same *lot*, the camp *structure* shall be separated from all dwellings on the same lot a minimum distance of 500 m (1,640.4 ft).

- (b) Where a *camp* is to be established as the *main use* of a *lot*, the camp shall be separated a minimum of 300 m (984.25 ft) from *dwellings* on adjacent lots.
- (c) A *camp* shall not be serviced with electricity from a *public utility* or running water.
- (d) A *camp* shall not exceed a maximum *gross floor area* of 40 m² (430.5 ft²).

4.7 Change of Use

The *use* of a *lot*, *building* or *structure* which, under the provisions of this By-law, is not permitted within the *zone* in which such lot, building or structure is located, shall not be changed except to a use which is permissible within such zone or as otherwise authorized by the Committee of Adjustment under Section 45(2) of the *Planning Act*.

4.8 Cumulative Standards

Notwithstanding anything in this By-law to the contrary, where any *lot*, *building* or *structure* is *used* for more than one (1) purpose, the applicable provisions of this By-law which serve to regulate each use shall be complied with. (*When a lot, building or structure accommodates more than one use, the parking space requirements, loading space requirements and other such requirements related to each use shall be the sum of the requirements for the separate uses*)

4.9 Established Building Lines

Despite the *yard* and *setback* provisions of this By-law to the contrary, where a permitted *building* or *structure* is to be *erected* on a *lot* in the McGarry Urban Settlement Area Boundary, where there is an *established building line* extending on both sides of the lot, such permitted building or structure may be erected closer to the *street line* than required by this By-law provided such permitted building or structure is not erected closer to the street line than the established building line. All other provisions of this By-law shall apply.

4.10 Fences

Any *fence erected* hereafter within the *municipality* shall conform to the provisions of any Fence By-law as may from time-to-time be enacted under the *Municipal Act*, or any provisions for fences set out in this By-law and as follows:

- (a) **Fences in a residential zone**
 - (i) The maximum *height* of a *fence* in the *interior side* or *rear yard* shall be 2 m (6.56 ft) measured from the *average grade*.

- (ii) The maximum height of a fence in the *front yard* or *exterior side yard* shall be 1 m (3.28 ft) measured from the average grade.
 - (iii) No fence shall be erected so as to obstruct a *sight triangle*.
 - (iv) An unpierced hedgerow or other unpierced planting in a front or exterior *side yard* shall be deemed to be a fence.
 - (v) The use of barb-wire, spire tips, sharp objects or any device for projecting an electric current in any fence construction is prohibited.
- (b) **Fences in non-residential zones**
- (i) The maximum *height* of a *fence* in any *yard* of a non-residential use shall be limited to 2.5 m (8.2 ft) where the fence is a chain-link fence or other similar transparent construction material, or 2 m (6.56 ft) for any other materials.
 - (ii) No fence shall be erected so as to obstruct a *sight triangle*.
 - (iii) The use of barb-wire, spire tips, sharp objects or any device for projecting an electric current in any fence construction is prohibited unless permitted by regulation by a *public authority*.
- (c) Paragraph (b) shall not apply to fences required for *public service uses* or *communication facilities*.
- (d) Where there is a conflict between this By-law and a Fence By-law enacted under the *Municipal Act*, the provisions of the Fence By-law shall prevail.

4.11 Flood Plain

The following provisions shall apply to areas located below any engineered *flood elevation*. The flood elevation of Larder Lake has been identified at 287 m (941.6 ft). No person shall *use* any land or *erect, alter* or use any *building* or *structure* in the *flood plain* except in accordance with the following provisions:

- (a) **Permitted Uses**
- (i) Buildings or structures intended for flood or erosion control or slope stabilization
 - (ii) All buildings and structures in existence on the day of passing of this By-law
 - (iii) A *swimming pool* except as approved by the Ministry of Natural Resources
 - (iv) *Conservation Uses*

- (v) **Marine facilities**
- (vi) **Parks**, not including buildings or structures associated with parks unless permitted elsewhere in this subsection (*Examples: gazebo permitted but not a storage building*)
- (vii) **Landscaped open space**
- (viii) Hydro-electric generating facilities, not including the **main building** of such facility
- (ix) Infrastructure incidental to a water supply or waste water treatment facility such as a water intake or sewer outfall but not including the main building of such facility.

(b) **Prohibited Uses**

Buildings and **structures** shall not be permitted to locate in **hazardous lands** where the **use** is:

- (i) an institutional use associated with **hospitals, day nurseries, continuum-of-care facilities, retirement homes** and **schools**, where there is a threat to the safe evacuation of the sick, the elderly, persons with disabilities or the young during an emergency as a result of flooding, failure of floodproofing measures or protection works or erosion;
- (ii) an essential emergency service such as that provided by fire, police and ambulance stations and electrical substations, which would be impaired during an emergency as a result of flooding, the failure of floodproofing measures and/or protection works, and/or erosion; and
- (iii) uses associated with the disposal, manufacture, treatment or storage of **hazardous substances**.

(c) **Additional Provisions**

- (i) Any new **building** or **structure** or any enlargement of or addition to any buildings or structures permitted in the flood plain after the day of passing of this By-law shall incorporate appropriate engineered construction techniques which reduce or eliminate the risks of flood damage from erosion or unstable slopes.
- (ii) Modification of the **flood plain** through dumping, filling, excavation or site grading of land or the diversion or alteration of any watercourse or the obstruction of the flood capacity by any means is prohibited unless otherwise permitted and/or approved by the agency having authority.

4.12 Frontage on Roads and Water

- (a) No **building** or **structure** shall be **erected** in any **zone** unless the **lot** upon which such building or structure is to be erected has **frontage** onto and direct access to a publicly owned and maintained road that is open year-round, except:
- (i) Existing lots of record created prior to the date of adoption of this By-law that are in the Lakefront Residential (R4) Zone where frontage may be on a private road or where the lot is an authorized **water access lot** in accordance with paragraph (a)(ii);
 - (ii) Authorized **water access lots** and islands where parking is available through a legal agreement on land that is accessible by **motor vehicle** (a legal agreement does not include a **boat slip** rented or leased from the **municipality** unless the agreement for the boat slip specifically states that the use of the boat slip may be used for access to a water access lot);
 - (iii) **Camps**;
 - (iv) **Buildings** and/or **structures** associated with a **mineral aggregate operation**, **mineral mining operation** or **forestry uses**, which may have frontage on a public road, private road or resource access road;
 - (v) A resource related **use** on Crown Land;
 - (vi) A **wayside pit** or **quarry**;
 - (vii) Any passive outdoor recreational use or activity such as skiing, snowmobiling, hiking, mountain biking or similar activities;
 - (viii) **Public utilities**.
 - (ix) Mineral exploration.
- (b) Despite paragraph (a), where a maintenance or subdivision agreement exists between the **municipality** and a land owner and is registered on title, **frontage** on an unassumed, unopened or unmaintained right-of-way shall be deemed to conform to the provisions of this section, provided that such **lot frontage** is in conformity with the standards set out in the corresponding **zone** or any exception thereto.
- (c) In addition to all the requirements of the Corporation of the Township of McGarry, the **erection** of all **buildings** and **structures** within the Ontario Ministry of Transportation's Permit Control Area is subject to the requirements and/or permits of the Ontario Ministry of Transportation.

4.13 Height Exceptions

The maximum height requirements of this By-law shall not apply to any of the following:

- Air conditioning system
- Chimney
- **Place-of-worship** spire or belfry
- Clock tower
- Communications tower
- Drying tower
- Elevator or stairway enclosure
- Enclosed mechanical and electrical equipment penthouse
- Farm-related buildings and structures such as a silo or windmill, but not including a barn or dwelling
- Flag pole
- Headframe or hoist
- Hydro-electric transmission tower
- Lightning rod
- Ornamental dome or cupola
- Satellite dish
- Security Camera
- Skylight
- Solar collector panel
- Television or radio antennae
- Ventilating fan or skylight
- Water tower or tank
- Weathervane
- Wind turbine

4.14 Home Based Businesses

- (a) The following *home based businesses* shall be permitted as **accessory** to any permitted **residential use**:
- (i) professional and consulting services (*examples: architect, engineer, financial advisor, accountant, consultant, legal services, physician, teleworker*)
 - (ii) instructional services (*examples: music lessons, dance, art, academic tutoring*)
 - (iii) home craft businesses (*examples: quilter, potter, jeweler, painter/visual artist, small scale assembler*)
 - (iv) **day nursery**
 - (v) distribution sales office or mail order sales (*examples: cosmetics, clothing or small household appliances*)
 - (vi) offices for contractors and trades (*examples: plumber, electrician*)
 - (vii) repair services (*examples: small appliances, computers*)
 - (viii) high technology uses (*examples: internet services, office call centre services, desktop publishing, computer hardware and software development*)
 - (ix) personal care services (*examples: hairdresser, barber, massage therapist, esthetician*)
 - (x) **catering establishment.**
 - (xi) **Studio**

- (xii) Pet grooming, but not including overnight keeping of animals
 - (xiii) Sale of bait for recreational fishing purposes
- (b) A *restaurant, clinic, kennel*, any retail or wholesale store or vending outlet, laundry services, *veterinary establishment*, multiple chair hairdresser or barber, *place of amusement, funeral parlour*, small engine repair, automobile repair, *tourist establishment*, workshop, *storage yard, machine shop, auto repair garage*, convalescent home, mortuary, or any *use* that cannot be categorized under paragraph (a) shall not be permitted as a home based business.
- (c) *Home based businesses* may be permitted provided that:
- (i) the *use* is clearly secondary to the use of the *dwelling unit* as a private residence and shall be located within the dwelling unit within the boundaries of the Urban Settlement Area as shown on the *Official Plan*, but may also be permitted in an *accessory building* in a Rural Residential (R3) Zone;
 - (ii) where instruction is carried on (e.g. instructional services), there shall not more than five (5) pupils accommodated at any given time;
 - (iii) no more than two (2) *home bases businesses* shall be permitted in any one (1) *dwelling unit*;
 - (iv) not more than 25% of the *gross floor area* of a *dwelling unit*, up to a maximum of 50 m² [538.2 ft²], may be used for *home based business* purposes. Where two (2) home based businesses exist within a single dwelling unit, the maximum gross floor area used for the combined businesses shall not exceed 25% of the dwelling unit up to a maximum of 50m² [538.2 ft²];
 - (v) the *home based business* shall be operated by the owner or occupant of the *dwelling unit* within which it is located and shall not employ more than one (1) non-household members who works on-site;
 - (vi) the *use* does not create nor become a public nuisance in regard to noise, traffic, parking or health safety, and shall not be a *noxious use*, trade, business or activity;
 - (vii) there is no *outdoor storage* or *display* to indicate to persons outside that any part of the property is being used for a *use* other than *residential*;
 - (viii) only one (1) *sign* may be permitted to advertise the *home based business*. Such sign shall not exceed 1 m² (10.76 ft²) in surface area and shall not be back-lit. The permitted sign may be a freestanding sign in a *front* or *side yard* or may be attached to a wall of a permitted *building* or *structure*. The sign may be illuminated by lights where the illumination is directed directly onto the sign and does not create a glare on adjacent properties (See also

Section 4.15). Signs may also be subject to any Sign By-law as may from time to time be enacted by the Township under the *Municipal Act*.

- (ix) no outside waste associated with the business shall be permitted;
 - (x) parking is provided in accordance with Section 4.23 of this By-law;
 - (xi) the business does not generate excessive traffic and shall not create a traffic hazard;
 - (xii) the business does not receive clients or deliveries between the hours of 9:00 p.m. (2100 hours) and 7:00 a.m. (0700); and
 - (xiii) the business is legal and has obtained any necessary permits or licenses from the *municipality* and/or any other applicable government body having jurisdiction.
- (d) *Bed and breakfast establishments* shall not be subject to this Section of the By-law. (See Section 4.4 of this By-law)

4.15 Illumination

Illumination of *buildings*, *structures*, grounds and *yards* shall be permitted provided that:

- (a) The illumination does not cause direct or indirect glare on a *street* that may interfere with traffic or pedestrian safety;
- (b) The illumination does not consist of a colour or be so designed or located that it may be confused with traffic signals; and
- (c) The illumination does not cause direct or indirect glare on land or buildings in any *zone* in which *residential uses* are permitted.

4.16 Land Suitability for Use

Notwithstanding anything in this By-law to the contrary, no *building* or *structure* that is habitable, provides overnight accommodation, or is used for commercial, industrial or institutional purposes, shall be *erected*, constructed or *altered* on land which, by reason of its, rocky, low-lying, marshy, unstable character which is in a flood plain or which is located or may be located on organic soil or steep slopes unless it can be demonstrated through professionally acceptable engineering techniques that the physical constraint can be mitigated or overcome and that the requirements of the *Ontario Building Code* with respect to construction can be met. (See also Section 4.11)

4.17 Landscaped Open Space

- (a) In any *Residential, Commercial* or *Industrial Zone*, any portion of any *front* or *side yard* which is not used for any other permitted purpose shall be devoted to *landscaped open space*.
- (b) Any land *used* for landscaped open space shall be included in the calculations for *lot area* requirements as set forth in this By-law.
- (c) Where landscaped open space is required as buffering, such landscaping shall be continuous except for a *lane, driveway, aisle* or walkway which provides access to the *lot*.
- (d) A planting strip may form part of any required landscaped open space.
- (e) The provisions for landscaped open space as set out in this By-law shall not be deemed to limit the Township's authority to impose other landscaping measures through a site plan agreement.

4.18 Loading Space Requirements

For every *building* or *structure erected* after the date of passing of this By-law for a commercial, institutional and industrial use, involving the shipping, loading or unloading of persons, animals, wares, merchandise or other goods, *loading* facilities and *spaces* shall be provided and maintained in accordance with the following requirements:

- (a) The *loading space* requirements stated in this Section shall not apply to buildings or structures in existence as of the date of passing of this By-law, but shall apply to floor areas added as part of any expansion or enlargement to such buildings or structures after the date of passing of this By-law.
- (b) Each *loading space* shall have a minimum height clearance of 4.5 m (14.74 ft) and shall be at least 3.5 m (11.48 ft) in width by 10 m (32.81 ft) in length.
- (c) *Loading spaces* shall be located in a building or structure, an open *rear yard* or an open *side yard* on the same *lot* on which the main *use* is located and the loading space is required, provided such a space is in an area whose distance from a *lot line* to the *building* or *structure* is not less than 7.5 m (24.6 ft) and shall have unobstructed access to and from a street by a *driveway*, lane or *aisle* of a minimum width of 6 m (19.7 ft).
- (c) The number of required loading spaces shall be based on net floor area of the building or structure as follows:
 - (i) **Commercial Uses**

Net Floor Area	Minimum Required Loading Spaces
0 - 200 m ² [0 - 2,152.78 ft ²]	0
200.01 - 500 m ² [2,152.89 - 5,381.96 ft ²]	1
over 500 m ² [over 5,381.96 ft ²]	1 plus 1 additional space for each additional 300 m ² [3,229.17 ft ²] of <i>net floor area</i> or part thereof

(ii) **Industrial Uses, excluding mineral mining operations and mineral aggregate operations**

Net Floor Area	Minimum Required Loading Spaces
0 - 350 m ² [0 - 3,767.37 ft ²]	0
350.01 - 1,000 m ² [3,767.48 - 10,763.91 ft ²]	1
over 1,000 m ² [over 10,763.91 ft ²]	1 plus 1 additional space for each additional 1,000 m ² [10,763.91 ft ²] of <i>net floor area</i> or part thereof

(d) Notwithstanding paragraphs (a), (b), (c) and (d), there shall be no minimum number of *parking spaces* required for non-residential use (not including non-residential uses that provide overnight accommodation, e.g. *hotel, motel*) in the Townsite Centre (TC) Zone.

4.19 More than One Zone Applying to a Lot

Where a *lot* is divided into more than one (1) *zone*, each such portion of the lot shall be used in accordance with the provisions of this By-law for the zone where such portion of the lot is located.

4.20 Non-Conforming Uses, Buildings, Structures and Lots

(a) **Continuation of Existing Uses**

Nothing in this By-law shall 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 passing of this By-law, so long as it continues to be used for that purpose. The use of any land, building or structure shall not be changed except to a use which is in conformity with the provisions of the *zone* in which the land, building or structure is located without permission from the Committee of Adjustment pursuant to the *Planning Act*.

(b) Prior Building Permits

Nothing in this By-law shall apply to prevent the *erection* or *use* of any *building* or *structure* for a purpose prohibited by this By-law for which a permit has been issued under the *Building Code Act*, prior to the day of 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 the *Building Code Act*.

(c) Road Widening

Nothing in this By-law shall prevent the *use* of any land, *building* or *structure* or the *erection* of any building or structure on a *lot* which does not comply to the minimum *lot frontage* and/or *lot area* and/or *front yard setback* and in the case of a *corner lot*, the *side yard setback*, as a result of a road widening taken by the Township of McGarry or the Ministry of Transportation of Ontario, provided all other requirements of this By-law are complied with.

(d) Rebuilding, Repairs and Renovations

Where a *building* or *structure* was *erected* prior to the date of passing of this By-law on an undersized *lot* or where an existing building or structure is a legal *non-conforming use*, building or structure, the said building or structure may be reconstructed, repaired or *renovated* provided that:

- (i) The reconstruction, repair or renovation does not include any change of *use* of the land, building or structure except to a use which is permissible within the zone in which it is situated;
- (ii) The reconstruction, repair or renovation does not further reduce the zone requirements of the zone which the building or structure does not comply with; and
- (iii) All other requirements of this By-law are complied with.

(e) Existing Undersized Lots

- (i) Notwithstanding anything else to the contrary in this By-law, where a vacant *lot* in the General Residential (R1) Zone having a lesser *lot frontage* and/or *lot area* than is required by this By-law is held under distinct and separate ownership from adjoining lots as of the date of passing of this By-law, the lot may be used for a purpose permitted in the *zone* in which it is situated provided all other requirements of this By-law are complied with.
- (ii) Notwithstanding anything else to the contrary in this By-law, where a vacant *lot* in the Rural Residential (R3) Zone or the Lakefront Residential Zone having a lesser *lot area* than is required by this By-law is held under distinct and separate ownership from adjoining lots as of the date of passing of this By-law, the lot may be used for a purpose permitted in the *zone* in which it is

situated provided it has an absolute minimum lot area of 0.5 ha (1.24 ac) and all other requirements of this By-law are complied with.

(f) Act of God

If a non-conforming building or structure is damaged or destroyed by an act of God (e.g. fire, flood, earth quake), nothing in this By-law shall prevent such building or structure from being reconstructed, restored or strengthened to a safe condition, provided the height and size of the building or structure are not increased, approved flood proofing techniques are used (if required), and provided that reconstruction is commenced within twelve (12) months and completed within two (2) years from the date on which the damage took place.

4.21 Occupancy Restrictions

Human habitation shall not be permitted in any of the following *buildings, structures, vehicles* or parts thereof unless the building, structure or parts thereof meet all the requirements of the Fire Code, the Ontario Building Code and any other applicable regulations, policies or acts:

- (a) Any private *garage* or other building which is *accessory* to a main use unless permitted in this By-law;
- (b) Any truck, bus, coach or streetcar body, whether or not the same is mounted on wheels;
- (c) Any cellar, as defined in this By-law; and
- (d) Any *dwelling* before the *main wall* and roof have been *erected*, application of exterior siding and roofing has been completed, and the kitchen, heating and sanitary conveniences have been installed.

4.22 Open Storage

Open storage shall be permitted in the Industrial (I) and Highway Commercial (HC) zones in accordance with the following:

- (a) The open storage is *accessory* to the main *use* of the *lot*;
- (b) Open storage shall not be permitted within any *front yard* or any minimum *side* or *rear yard* where such *yard* abuts lands zoned General Residential (R1), Institutional (I) or Open Space (OS).
- (c) Any area of open storage shall be enclosed by a *fence*, or shall be surrounded by a planting strip in accordance with Section 4.25 of this By-law; and

- (d) No open storage area shall occupy any required off-street ***parking*** or ***loading space*** so as to reduce the number of parking or loading spaces below the number required by Section 4.23 of this By-law.

4.23 Parking Requirements

- (a) Except as provided herein, no ***vehicles*** shall be parked or stored in a ***zone*** in which ***residential uses*** are permitted unless the vehicle is located within a ***garage, car port, driveway, parking space***, designated ***parking area*** or on a ***street*** as permitted by a By-law enacted by the ***municipality***.
- (b) Notwithstanding anything in this By-law to the contrary, there shall be no minimum number of ***parking spaces*** required for non-residential uses (not including non-residential uses that provide overnight accommodation, e.g. ***hotel, motel***) in the Townsite Centre (TC) Zone.
- (c) No ***parking space*** in a ***zone*** in which ***residential uses*** are permitted shall be used for the outdoor parking or storage of a ***motor vehicle*** unless such vehicle is used in operations incidental to the ***main*** and ***accessory use*** of the ***lot*** on which it is parked or stored.
- (d) Each standard ***parking space*** shall have a minimum width of 2.7 m (8.86 ft) and a minimum length of 6 m (19.7 ft). Each ***barrier-free parking space*** shall have a minimum width of 3.7 m (12.1 ft) and a minimum length of 6 m (19.7 ft).
- (e) Unless permitted elsewhere in this By-law, where two (2) or more ***uses*** are permitted in any one (1) ***building*** or on any one (1) lot, the total number of off-street ***parking spaces*** shall be calculated based on the sum of spaces required for each separate use. (*Example: Where a seasonal dwelling and a sleep cabin are constructed on a lot, the lot shall be provided with a minimum of three (3) parking spaces*)
- (f) The ***parking space*** requirements shall not apply to any building in existence at the date of passing of this By-law so long as the ***gross floor area***, as it existed at said date, is not increased and no change in use occurs. If an addition is made to the ***building*** or ***structure*** which increases the gross floor area, or a change in use occurs, then parking spaces for the addition or area changed in use shall be provided. Additional parking spaces shall not be required where the ***gross floor area*** of a ***dwelling unit*** is increased.
- (g) The following supplementary regulations shall apply to ***parking spaces*** and parking areas for ***single detached, semi-detached, duplex, triplex, converted, seasonal and row or townhouse dwellings***:
 - (i) The ***driveway*** and ***parking area*** shall be constructed of asphalt, concrete, paver stones, crushed stone or similar materials and shall be maintained and

treated so as to reduce dust, scattering of stones and similar potentially undesirable effects on adjoining properties;

(ii) Any required *front yard* may be used for parking provided the width of the driveway and/or parking area does not exceed 7 m (22.9 ft.).

(h) The following supplementary regulations shall apply to *parking areas* for five (5) or more vehicles:

(i) Any *parking area* shall be constructed of asphalt, concrete, paver stones, crushed stone or similar materials and shall be maintained and treated so as to reduce dust scattering of stones and similar undesirable effects on adjoining properties and shall incorporate drainage facilities that comply with the requirements of the *Township*.

(ii) Ingress and egress directly to and from every *parking space* shall be by means of a *driveway, lane* or *aisle* having a width of at least 6 m (19.7 ft) for two-way traffic and 3.5 m (11.5 ft) for one-way traffic where parking is angled.

(iii) A *driveway* or lane which does not provide ingress and egress directly to a *parking space* shall have a minimum width of 3.5 m (11.48 ft) where designed for one-way vehicular circulation or 6 m (19.7 ft) where designed for two-way vehicular circulation.

(iv) **Barrier-Free Parking Requirements**

Where five (5) or more parking spaces are required by this By-law, *barrier-free parking* shall be provided in accordance with the following table:

Number of Standard Parking Spaces Required by this By-law	Number of Barrier-free Parking Spaces Required
5-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
Over 200	4% of the number of standard parking spaces required

(i) Except where permitted elsewhere in this By-law, the required parking for *residential uses* in any *zone* shall be provided on the same *lot* as the *dwelling unit*. For all other uses, the *parking spaces* shall be provided within 100 m (328.1 ft) of the building it is intended to serve, subject to an agreement, deed or renewable lease which provides for same. Parking for a permitted *water access lot* shall be provided at a public access point that is secured by a legal agreement and is on the same *water body* and is accessible by navigable water.

- (j) Where five (5) or more required **parking spaces** in a non-residential zone lie adjacent to a **residential zone** or lands used for residential purposes, a continuous 3 m (9.84 ft) wide strip of landscaped open space shall be provided and maintained. Plant materials shall be trees and shrubs of not less than 3 m (9.8 ft) and 1 m (3.28 ft) in height respectively at the time of planting and whose heights at maturity will reach at least 9 m (29.5 ft.) and 1.5 m (5 ft.) respectively, and will be of a type which will provide an effective visual screen between the particular properties. Such plant materials may be combined with or replaced by landscaped berms and provide an effective visual screen.
- (k) Despite paragraphs (h)(iv) and (l), if the calculation of the minimum **parking space** requirements results in a fraction, the minimum requirement shall be the next higher whole number. (*Example: 7.23 spaces shall be deemed to require 8 parking spaces*)
- (l) The owner of every **building** or **structure erected**, enlarged or **used** for any of the purposes hereinafter set forth, except authorized **water access lots**, shall provide and maintain for the sole use of the owner, occupant or other persons entering upon or making use of the said premises from time to time, off-street **parking spaces** and **areas** as follows:

Use	Minimum Number of Parking Spaces Required
Residential Uses:	
<i>Single Detached Dwelling</i> <i>Semi-Detached Dwelling</i> <i>Duplex Dwelling</i> <i>Triplex Dwelling</i> <i>Converted Dwelling</i> <i>Seasonal Dwelling</i> <i>Row or Townhouse Dwelling</i> <i>Park Model Trailer</i>	2 spaces per <i>dwelling unit</i>
<i>Apartment Dwelling</i>	1.5 spaces per <i>dwelling unit</i> (1 space per <i>Bachelor Apartment Unit</i>), 15% of which shall be reserved as visitor parking
<i>Apartment-in-a-House, Garden Suite, Loft-Above-a-Garage, Sleep Cabin, Retirement Home</i>	1 space per unit
<i>Bed and Breakfast</i>	1 space for each <i>guest room</i> in addition to the required residential spaces
<i>Home Based Business</i>	1 space in addition to the required residential spaces plus 1 space per employee
<i>Continuum-of-Care Facility</i>	1 space for every 6 patient beds plus 1 space for every 4 employees.

Use	Minimum Number of Parking Spaces Required
<i>Group Home, Crisis Care Facility</i>	1 space for every 5 residents plus 1 space per employee
Other Uses:	
<i>Ambulance Facility</i>	1.5 spaces per employee
<i>Art Gallery, Studio, Veterinary Establishment, Convenience Store, Personal Service Establishment</i>	1 space per 45 m ² [484.4 ft ²] of gross floor area , minimum 3 spaces
<i>Auto Body Shop, Automobile Repair Garage, Automobile Service Station, Gasoline Bar, Gasoline Card Lock Facility</i>	3 spaces per service bay
<i>Building Supply Store, Lumber Yard, Garden Centre, Nursery</i>	1 space for every 20 m ² [215.3 ft ²] of gross floor area of bulk storage
<i>Camp</i>	0 parking spaces
<i>Campground</i>	1 space per campsite plus the required spaces for any associated uses based on this table (e.g. restaurant) but not including an administration office in relation to the campground
<i>Car Wash</i> (self service)	1 waiting spaces per wash bay excluding the wash bay
<i>Car Wash</i> (automatic service)	5 waiting spaces per wash bay excluding the wash bay
<i>Clinic</i>	1 space per 15 m ² [161.5 ft ²], whichever is greater
<i>Construction Yard or Contractor's Yard, Equipment and Vehicle Storage Yard, Equipment Rental Establishment, Portable Asphalt/Concrete Plant, Salvage Yard</i>	Where use does not include buildings , 1 space per hectare [2.47 ac]. Where use includes buildings, 1 space per 30 m ² [322.9 ft ²] of gross floor area for retail, showroom and administration, plus 200 m ² [2,152.8 ft ²] for warehousing and wholesaling, where applicable
<i>Funeral Parlour</i>	1 space per 20 m ² [215.3 ft ²] of gross floor area , minimum 3 spaces
<i>Equestrian Establishment</i>	3 spaces
<i>Heliport, Private Airfield</i>	1 space
<i>Hotel, Motel, Tourist Establishment, Tourist Outfitters Establishment</i> (with road access)	1 space per guest room or suite, plus the required spaces for any associated use (e.g. restaurant)
<i>Industrial Use, Sawmill or Planing Mill</i>	1 space for every 100 m ² [1,076.4 ft ²] of floor area up to 200 m ² [2,152.9 ft ²], plus 1 additional space for every 200 m ² [2,159.9 ft ²] of floor area thereafter
<i>Library, Museum, Day Nursery</i>	1 space per 40 m ² [430.6 ft ²] of gross floor area

Use	Minimum Number of Parking Spaces Required
<i>Marina</i>	1 space for every seasonal boat slip, plus 1 space for every 4 transient boat slip plus 1 trailer space for ever 10 boat slips
<i>Miniature Golf Course</i>	1.5 spaces per course
<i>Public Service Use</i>	1 space per 20 m ² [215.3 ft ²] of <i>gross floor area</i> , minimum 3 spaces
<i>Place of Assembly, Place of Worship, Theatre</i>	1 space per 4 persons accommodated according to the maximum permitted seating capacity, or 1 space per 10 m ² [107.64 ft ²] where there are no fixed seats
<i>Restaurant, Tavern</i>	1 space per 10 m ² [107.64 ft ²]
<i>Retail Store, Bank, Flea Market</i> (where contained within a <i>building</i>)	1 space per 20 m ² [215.3 ft ²] of <i>gross floor area</i> , minimum 5 spaces
<i>School</i> (elementary)	1 space per classroom (includes portables)
<i>School</i> (secondary)	5 per classroom (includes portables)
<i>School</i> (post-secondary)	2 per 100 m ² [1,076 ft ²]
<i>Warehouse</i>	1 space per 100 m ² [1,076.4 ft ²] of <i>gross floor area</i>
All other uses not listed above	1 space per 30 m ² [322.9 ft ²] of <i>gross floor area</i>

4.24 Permitted Encroachments in Yards

- (a) Every part of any *yard* required by this By-law shall be open and unobstructed by any *building* or *structure* from the ground to the sky except those listed in the following table. These structures shall be permitted to project into the minimum yards required by this By-law for the following specified distances:

Structure	Maximum Projection into Required Yard
Chimney breasts, cornices, sills, pilasters, eaves or gutters, <i>solar collectors</i> (where attached to building), heat pumps, ventilators, shutters, cornices, parapets, pilasters or other ornamental structures	1 m (3.28 ft) into any <i>front, rear</i> or <i>side yard</i>
Canopies which are at least 2.13 m (7 ft.) in vertical clearance above the <i>established grade</i> , with or without supporting posts	2 m (6.5 ft.) into any <i>yard</i>
Canopies for entrances to apartment buildings and commercial buildings	Notwithstanding any other provisions in this By-law, a canopy or portico over a major entrance to an <i>apartment dwelling</i> building or commercial building may project into the required <i>yard</i> a distance equal to one-half (50%) the setback of the <i>building</i> from the <i>street line</i>
Window awnings, window bays	1 m (3.28 ft) into <i>front, rear</i> and <i>exterior side yards</i>

Structure	Maximum Projection into Required Yard
Ramps for use by handicapped, steps and walkways	No maximum into any <i>yard</i>
Unenclosed porch, uncovered platform landing, patio or deck, balconies or steps	3.0 m (9.8 ft), including eaves and cornices, into any <i>front</i> or <i>rear yard</i>
Balconies	1 m (3.28ft) into any <i>yard</i> for <i>apartment dwellings, duplex dwellings, row or townhouse dwellings, triplex dwellings</i> , or similar dwellings containing multiple <i>dwelling units</i>
Fire escapes, exterior stair cases	1 m (3.28 ft) into <i>rear</i> and <i>exterior side yards</i>
Gate House in any Industrial Zone	Unlimited into any <i>front</i> or <i>side yard</i>
<i>Fences</i> , hedges, shrubs, trees, freestanding walls, flagpoles, light standards, garden trellises, clothes lines and similar <i>structures</i> or features, security cameras	Unlimited in any <i>yard</i>
<i>Accessory building</i> or <i>structure</i>	As permitted by and as specified in this By-law

- (b) No structure permitted to project into any required *yard* by paragraph (a) shall obstruct a *sight triangle*.

4.25 Planting Strips

Where a *lot used* for a *commercial* or *industrial use* abuts a *residential use* or a *residential zone*, or is separated from a residential use or residential zone by only a road or lane, a planting strip shall be provided on the *lot* occupied by the commercial or industrial use in accordance with this section:

- (a) A planting strip shall consist of at least a continuous unpierced hedgerow of evergreens or shrubs, not less than 1 m (3.28 ft) in *height*, immediately adjoining the *lot line* or portion thereof along which such planting strip is required hereunder, the remainder of the strip shall be planted with shrubs, flower beds, grass or a combination thereof.
- (b) In such cases where the *established grade* of the land on which the planting strip is required is less than the established grade of the edge of the adjacent residential use or residential zone, the required height of the planting strip shall be increased in an amount equal to the difference in elevation.
- (c) In such cases where the established grade of the land on the planting strip is required to be planted is greater than the established grade of the edge of the adjacent residential use or residential zone, the required height of the planting strip shall still apply.
- (d) Where a planting strip is required, it shall have a minimum width of 3 m (9.84 ft) measured perpendicular from the lot line it adjoins.

- (e) Paragraphs (a), (b), (c) and (d) may be substituted where provision is made for landscaping and planting strips in a site plan agreement.
- (f) A planting strip may form part of any *landscaped open space* required by this By-law.
- (g) Where planting strips are required, such planting strip shall be continuous except for *lanes, driveway, aisles* or walkways which provide access to the lot. It shall be permissible to interrupt the planting strip within 3 m (9.84 ft) of the edge of such driveway, lane or aisle, or within 1.5 m (4.92 ft) of the edge of such walkway.
- (h) Notwithstanding anything to the contrary in this By-law, a planting strip shall not obstruct a *sight triangle*. Where a required planting strip would obstruct a sight triangle, the strip shall instead abut the line drawn from a point on a *street line* to another point on a street line, each such point being 5 m (16.4 ft) from the point of intersection of the respective street lines. (see Section 4.27)
- (i) The provisions for planting strips as set out in this By-law shall not be deemed to limit the Township's authority to impose other landscaping measures through a site plan agreement.

4.26 Public Uses Permitted

Any land may be *used* and any *building* or *structure* may be *erected* or used for the purpose of a public service by a *public authority* in any *zone* provided that:

- (a) The *lot coverage* and *yard* requirements prescribed for the *zone* in which such land, *building* or *structure* is located are complied with;
- (b) No goods, materials or equipment is stored in the open in a *residential zone*;
- (c) Any *building erected* in a *residential zone* under the authority of this Section shall be designed and maintained in general harmony with the residential buildings of the type permitted in the *zone*; and
- (d) Parking and loading requirements as contained in this By-law shall be complied with.

4.27 Sight Triangles

- (a) Notwithstanding any provision of this By-law to the contrary, within any area defined as a *sight triangle*, the following *uses* shall be prohibited:
 - (i) A *building, structure* or *use* which would obstruct the vision of drivers of motor *vehicles*.

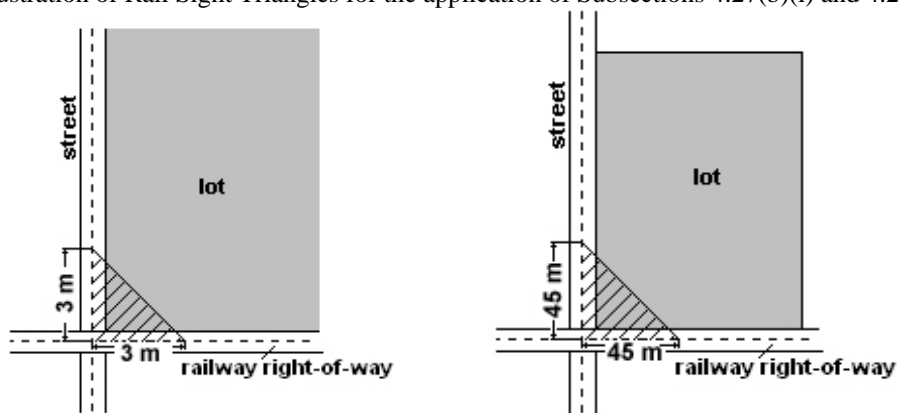
- (ii) A *fence* or tree, hedge, bush or other vegetation, other than agricultural crops, the top of which exceed 1 m (3.28 ft) in *height* above the elevation of the centrelines of abutting *streets*.
- (iii) A *parking area*.
- (iv) A finished grade which exceeds the elevation of the centrelines of abutting streets by more than 0.5 m (1.65 ft).

(b) Railway Crossings and Sight Distances

No obstruction to the vision of motor vehicle operators higher than 1 m (3.28 ft) above grade including, but not limited to, *buildings, structures, parking spaces*, storage, vegetation or planting strips is permitted on any *lot* abutting an at-grade intersection of a *street* or *private road* and:

- (i) A railway track where automatic signal protection is provided within the triangle formed by connecting to a point 3 m (9.84 ft) from the intersection of the centerline of the street and the centerline of the railway right-of-way; or
- (ii) A railway track where automatic signal protection is not provided within the triangle formed by connecting to a point 45 m (147.64 ft) from the intersection of the centerline of the street and the centerline of the railway right-of-way.
- (iii) For the purposes of this Section, an agricultural crop, chain link fence or other similar feature that can be seen through is not an obstruction.

Figure 4-1 – Illustration of Rail Sight Triangles for the application of Subsections 4.27(b)(i) and 4.27(b)(ii)



4.28 Signs

Unless otherwise states in this By-law, signs shall be permitted in accordance with any applicable by-laws of the Corporation of the Township of McGarry.

4.29 Special Setbacks and Separation Distances

(a) Provincial Highway

Notwithstanding anything else to the contrary in this By-law, all **buildings** and **structures** in all **zones** of this By-law shall be setback from the right-of-way of a provincial **highway** a distance of 14 m (45.9 ft) for **commercial uses** and 8 m (26.2 ft) for **residential uses**, or as otherwise prescribed by the Ontario Ministry of Transportation.

(b) Water Bodies and Watercourses

- (i) All habitable **buildings** and **structures** (**dwellings, sleep cabins, garden suites, recreational vehicle**, etc), non-residential buildings, saunas, detached **garages, sheds** and storage buildings shall be setback a minimum of 25 m (82 ft.) from the high water mark of any **water body** or **watercourse**. A **on-site sewage disposal systems** shall be setback a minimum of 30 m (98.4 ft.) from the high water mark.
- (ii) **Shoreline structures** (not including, boat houses, boat ports, float plane hangars, docks or wharfs) shall be setback a minimum of 15 m (49.2 ft.) from the **high water mark** of any **water body** or **watercourse**.
- (iii) There shall be no setback from the high water mark of any water body or watercourse for boat houses, boat ports, float plane hangars, docks, wharfs or similar structures associated with the **shoreline**. All other setback requirements of Section 4.1.1 of this By-law shall apply.
- (iv) The setbacks required by paragraphs (b)(i), (b)(ii) and (b)(iii) shall be measured as the shortest horizontal distance from the nearest part of the **building** or **structure** or the edge of the filter bed/tile bed/leaching bed of a **sewage disposal system** to the **high water mark** of the **water body** or **watercourse**.

(c) Agricultural Uses

- (i) Any new **livestock facility** or **manure or material storage** shall comply with the **Minimum Distance Separation Formulae II** as amended by the Province from time to time, where applicable.
- (ii) Any new **sensitive land use** located on a lot greater than 1 ha (2.47 ac) shall comply with the **Minimum Distance Separation Formulae I** as amended by the Province from time to time, where applicable. The Minimum Distance Separation Formulae I shall not apply to **lots** located within the McGarry Urban Settlement Area Boundary.

- (iii) A *recreational vehicle* where one (1) or more persons are able to sleep and prepare and serve meals within the vehicle shall be considered a *dwelling* for the purposes of the *Minimum Distance Separation Formulae I and II*.
- (iv) Nothing in this By-law shall prevent the reconstruction of any sensitive land use that does not comply with the Minimum Distance Separation Formulae I which is unintentionally damaged by fire or other natural cause, provided the *height* and bulk are not increased, the new building or structure is located no closer to a livestock facility than prior to the catastrophe, and provided that reconstruction is commenced within two (2) years from the date of destruction. The reconstruction of any non-conforming or non-complying building which is unintentionally damaged by fire or other natural cause shall be encouraged to occur on lands that meet the requirements of the Minimum Distance Separation Formulae I and all other requirements of this By-law.
- (v) The reconstruction of any non-conforming sensitive land use initiated by the owner of the non-conforming sensitive land use shall comply with all provisions of the Minimum Distance Separation Formulae I and all other requirements of this By-law.

(d) Industrial Uses

- (i) The minimum separation distance between a *sensitive land use* and a *Class I Industrial Use* shall be 20 m (65.62 ft.) and shall be measured from the nearest *lot line* of the sensitive land use to nearest *lot line* of the Class I Industrial Use, or vice versa.
- (ii) The minimum separation distance between a *sensitive land use* and a *Class II Industrial Use* shall be 70 m (229.7 ft) and shall be measured from the nearest *lot line* of the sensitive land use to nearest *lot line* of the Class II Industrial Use, or vice versa.
- (iii) The minimum separation distance between a *sensitive land use* and a *Class III Industrial Use* shall be 300 m (984.3 ft) and shall be measured from the nearest *lot line* of the sensitive land use to nearest *lot line* of the Class III Industrial Use, or vice versa.
- (iv) Paragraphs (i) to (iii) shall not apply to prevent the *use* of land and the *erection of buildings and structures* on lots of record in existence on the date of passing of this By-law; however, any expansion of an industrial use shall comply with the separation distances.

(e) Waste Management Facilities

- (i) No *buildings* or *structures* shall be *erected* within 500 m (1,640.4 ft) of a *waste management facility*.

- (ii) No *use* of land shall be permitted within 30 m (98.4 ft) of the *fill area* of an operating or closed *waste management facility* unless the use directly associated with the waste management facility.

(f) Sewage Lagoon

No land shall be *used* for a *sensitive land use* and no *building* or *structure* shall be *erected* for a *sensitive land use* less than 400 m (1,312.34 ft) of a *sewage lagoon*.

(g) Rail Lines

No *buildings* or *structure* for a *sensitive land use* (e.g. *dwelling*, *day nursery*, etc) shall be *erected* within 75 m (246.06 ft) of the right-of-way of a rail line.

(h) Pits and Quarries

- (i) No land shall be *used* for a *sensitive land use* and no *building* or *structure* shall be *erected* for a *sensitive land use* less than 300 m (984.25 ft) of an *aggregate pit*.
- (ii) No land shall be *used* for a *sensitive land use* and no *building* or *structure* shall be *erected* for a *sensitive land use* less than 1,000 m (3,280.84 ft) of a *quarry*.
- (iii) No *sensitive land use* (e.g. *dwelling*, *day nursery*, etc) shall be *erected* within 500 m (1,640.4 ft) of lands zoned Mineral Aggregate Resource (MX) Zone.

(i) Group Homes

- (i) Where *group homes* and *crisis care facilities* are permitted in this By-law, such group home shall be approved and/or licensed under Provincial statutes and shall be in compliance with any applicable municipal by-laws. Group homes shall be permitted in the McGarry Urban Settlement Area Boundary.
- (ii) No *group home* will be permitted closer than 400 m (1,312.3 ft) in a straight line distance of another group home. The separation distance shall be measured from the closest point of the *lot* occupied by the group home to the closest point of the lot occupied by the other group.

4.30 Streets, Paths and Parks

- (a) Notwithstanding the list of permitted uses in each *zone* established by this By-law, *parks*, recreational paths, walkways, *streets*, lanes, *highways*, monuments and heritage sites are permitted in all zones of this By-law.
- (b) *Uses* listed in paragraph (a) shall not be subject to the *lot area* or *lot frontage* of the *zone* in which such use is located.
- (c) All *buildings* and *structures erected* as part of a *use* listed in paragraph (a) shall comply with all zone requirements of the *zone* in which such buildings or structures are located except the *lot area* and *lot frontage*.

4.31 Temporary Construction Uses Permitted

- (a) Nothing in this By-law shall prevent the *use* of land or the use or *erection* of a temporary *building* or *structure* or a scaffold or other equipment essential to the construction in progress for which a building permit has been granted, but only until such time as the work has been finished or abandoned or such equipment is no longer required.
- (b) In addition, temporary accommodation for a business or other *use* which is intended to occupy a *building* which is under construction with the work in progress on such building, may be temporarily permitted on the same *lot* in the form of a mobile, relocateable, portable or transportable building provided:
 - (i) approval is obtained pursuant to the matters contained herein;
 - (ii) such temporary accommodation is removed from the *lot* immediately upon completion of construction, abandonment of construction or at such time as in the opinion of the *municipality* it is no longer required.

4.32 Water Supply and Sewage Disposal

- (a) In the McGarry Urban Settlement Area Boundary, no person shall hereafter *erect* and *use* in whole or in part any *building* or *structure* without *full municipal services* for any purpose in any *zone*, except for the Open Space (OS) and Industrial (M) zones, unless the use is exempted under the *Building Code Act*.
- (b) For lands outside of the McGarry Urban Settlement Area Boundary, no person shall hereafter *erect* and *use* in whole or in part any *building* or *structure* unless the building or structure is properly connected to an approved *water supply and a sewage disposal system* under the *Ontario Water Resources Act* or the *Building Code Act* unless the use is exempted under the *Building Code Act*.
- (c) **Partial Services**

Where a zone symbol is followed by a dash and the symbol ‘p’ (*e.g.* ‘R3-p’), the lands so designated shall be subject to all of the provisions of the *zone* represented by the symbol contained in the prefix. The suffix ‘-p’ provides provision that such lands may be used where serviced by *partial services* in the form of *municipal water services* and *individual on-site sewage services*.

(d) Wellhead Protection Area

No development shall be permitted within 1 km of the wellhead protection zone. (See also Section 5.16.3).