

Section 5 – General Provisions

5.1 Accessory Buildings and Structures

5.1.1 Where a swimming pool or tennis court is provided, the total lot coverage for said accessory uses may increase to a maximum of twenty (20) percent. In no case shall the lot coverage of all buildings and accessory uses exceed the maximum lot coverage as provided for in the applicable provisions of this By-law.

5.1.2 In a residential zone, an accessory building or structure, shall not be erected closer to the street line than the principal building on the lot and shall further be erected in conformity with the yard and setback requirements of the respective residential zone, except as may otherwise be provided herein.

Notwithstanding the foregoing, in a residential zone an accessory building or structure in an exterior side yard can be located closer to the street line than the principal building provided the exterior side setback is maintained and the proposed structure is not located within a site triangle.”

5.1.3 Where an accessory use is attached to the main building, the front yard, side yard, rear yard and area requirements of this By-law shall be complied with as if the accessory building was part of the main building.

5.1.4 No person shall use an accessory building for human habitation except where a dwelling is permitted as an accessory building.

5.1.5 An accessory building shall not be built closer to any lot line than the minimum distance required by this By-law except that common semi-detached garages may be erected on a mutual side lot line.

5.1.6 Except in accordance with Section 5.16 no accessory building shall be erected prior to the erection of a principal building or structure.

5.1.7 The minimum distance of an accessory building from a principal building shall be 1.2 metres (4 feet).

5.2 Additional Residential Units

Notwithstanding any other provision of this By-law, where an additional residential unit is permitted hereunder, the following provisions shall apply:

- a) Additional residential units shall only be permitted in association with the following permitted principal uses:
 - i. Single detached dwellings; and
 - ii. Semi-detached dwellings.
- b) Additional residential units are not permitted within the:
 - i. Limited Service Residential (LSR) Zone or underlying Limited Service Residential (LSR) Zone;
 - ii. Waterfront Residential (WR) Zone or underlying Waterfront Residential (WR) Zone;
 - iii. Oak Ridges Moraine Core (ORMC) Zone; and
 - iv. Oak Ridges Moraine Linkage (ORML) Zone
- c) Notwithstanding Section 5.44 f) ii), an additional residential within the Oak Ridges Moraine is only permitted within the principle dwelling.

- d) Where an existing garden suite is situated on a lot it shall be classified as an additional residential unit. As such, only one additional residential unit within the principal dwelling shall be permitted subject to the provisions of this section.
- e) Additional residential units are only permitted on lots with frontage on and access from and improved public street.
- f) A maximum of two additional residential units per lot may be permitted subject to the following:
 - i. One (1) additional residential unit with a maximum floor area of 186 m² may be permitted within an existing or new single detached or semi-detached dwelling on a lot. For the purposes of this subsection, within shall mean, sharing a common roof system or flooring structure or sharing a common wall consisting of at least 30 percent shared surface.
 - ii. One (1) additional residential unit with a maximum floor area of 98 m² may also be permitted within a building or structure accessory to the single detached or semi-detached dwelling on a lot.
- g) Where additional residential unit(s) is/are proposed, the owner shall investigate whether an adequate supply of potable water is available, and that the site can assimilate wastes from the sewage disposal system without exceeding Ministry of the Environment and Climate Change guidelines for groundwater impact. Such information must accompany the building permit application, to the satisfaction of the Municipality and the authority having jurisdiction.
 - i. Where up to two additional residential units are proposed and the site is serviced with municipal water, a servicing statement is required from the municipality's water purveyor.
 - ii. Where up to two additional residential units are proposed, and the site is privately serviced, the owner shall provide a current Well Report, to the satisfaction of the Chief Building Official, to ensure adequate quantity and quality of the private service. Such report shall be dated no older than one year prior the building permit application.
- h) Additional residential units may be connected to the same servicing system for potable water and sewage disposal as the main dwelling on the lot pending approval of the municipality and authority having jurisdiction. If the servicing system is deemed to be inadequate to support the proposed additional residential unit(s), it is up to the property owner/applicant to provide an alternative servicing system to the satisfaction of the municipality and any other authority having jurisdiction as the case may be.
- i) Additional residential units shall be clearly accessory to the principal permitted use on the same lot;
- j) The establishment of additional residential units shall not be limited by any special zone provision that establishes the maximum number of dwelling units.
- k) Additional residential units shall be exempt from any minimum lot area requirement established per dwelling unit on a lot.
- l) Additional residential units shall comply with the required minimum Landscaped Open Space provision, where such requirement has been established for the zone in which the Additional Residential Unit is located.
- m) In addition to the parking space(s) required for single detached or semi-detached dwellings, one (1) parking space is required for each additional

residential unit. Tandem parking to a maximum of only one (1) space is permitted.

- n) Additional residential units within or otherwise attached to the principal dwelling unit shall provide a separate entrance which may be located at the side, rear or front of the principal dwelling unit. The entrance shall be accessed by a 1.2 metre (4 feet) wide unobstructed pathway from the front of the principal dwelling or the front lot line. For the purposes of this subsection, a “pathway” is defined as a hard surface treated path that is separately delineated from the driveway and provides pedestrian access. “Unobstructed” means no obstructions to a height of up to 2.3 metres (7.5 feet). This provision shall not prevent the establishment of a gate to access the rear yard.
- o) If an additional residential unit is proposed in a floodplain or an area rendered inaccessible to people and vehicles during times of flooding it shall require the approval of the authority having jurisdiction.
- p) Where an additional residential unit is located within a detached accessory building, the following provisions apply:
 - i. Shall comply with the accessory building minimum yard requirements of the zone;
 - ii. Shall be setback a minimum of 1.2 m (4 feet) from the principal dwelling located on the same lot;
 - iii. Shall have a maximum building height of 5.5 metres (18 feet);
 - iv. Shall comply with all other relevant accessory use provisions of the zone in which it is located;
 - v. A detached additional residential unit shall comply with the Minimum Distance Separation formulae;
 - vi. The provisions of Sections 5.26 and 5.37 do not apply to Clause 5.2 (p)(i);

5.3 Agriculture – Minimum Distance Separation

Notwithstanding any other yard or setback provisions of this By-law to the contrary, no development shall be located on a separate lot and permitted by a specific zone, unless it complies with the Minimum Distance Separation (MDS I) calculated using the Ontario Ministry of Agriculture Food and Rural Affairs Regulations and Guidelines. Notwithstanding any other yard or setback provisions of this By-law to the contrary, no livestock facility shall be erected or expanded within a PA and MA zone unless it complies with the Minimum Distance Separation (MDS II) calculated using the Ontario Ministry of Agriculture Food and Rural Affairs Regulations and Guidelines.

5.4 Area of Influence

No person shall erect any residential structure in any zone within 300 metres (984.3 feet) of lands zoned MXA - Mineral Extractive A and MXB - Mineral Extractive B without the approval of the Ministry of Natural Resources upon successful application for a minor variance and provided the residential use is a permitted use on the adjacent lands.

5.5 Backyard Hens

The keeping of a maximum of six (6) hens shall be permitted on properties zoned to permit a single detached dwelling. The keeping of hens shall be restricted to properties that have a minimum lot area of .4 hectares (one acre). The hens shall be always confined to an enclosure.

An enclosure for keeping one or more hens:

- Shall be located at least 3.0 metres from the side lot line and at least 3.0 metres from the rear lot line of the lot on which the hen coop is located.
- Shall be located at least 3.0 metres from abutting dwellings.
- Must be at least 7.5 metres from any church or school.
- Shall contain an enclosed roof structure and shall be no greater than 3.0 by 3.0 metres and no greater than 4.5 metres in height.
- Shall only be located in the rear yard.
- Manure/waste from the backyard hen enclosure shall not be stockpiled on the residential property.

5.6 Buffer Strips

Location

Where the interior side or rear lot line in a Community Facility, Commercial or Industrial zone abuts a Residential Zone, a buffer strip adjoining such abutting lot line or portion thereof shall be provided on the lot within the Community Facility, Commercial or Industrial Zone.

Contents

Required buffer strips shall contain one or more of the following screening devices:

- a) A continuous row of trees;
- b) A continuous hedgerow of evergreens, bushes or shrubs;
- c) A berm
- d) A wall
- e) A fence

Design

Screening devices comprising a required buffer strip shall:

- a) Be arranged so as to form a dense or opaque screen or barrier;
- b) Be designed to have an ultimate height of not less than 1.8 metres above the elevation of the ground at the nearest lot line, provided that they do not obstruct a sight triangle.

Landscaped Open Space Supplement

A buffer strip referred to in this Subsection may form part of any landscaped open space required by this By-law.

Allowances for Driveways

Notwithstanding any provision of this by-law to the contrary, the buffer strip can be interrupted to allow for access to a property where site access will be provided from a rear yard.

5.7 Development on a Private Road

No person shall erect any building or structure on a lot with frontage on a Private Road unless the lot is zoned Limited Service Residential (LSR) Zone and provided the owner has entered into an agreement with the Township, as a condition of Site Plan Approval, acknowledging that the Township will not be responsible for maintaining the private road and further that, in the event of an emergency, the Township will make every attempt to respond in an expeditious manner but because of the properties' location on a private road, response may be delayed. All other applicable provisions of the By-law shall apply.

5.8 Development on a Township Road/Public Road/Street or County Road

No person shall erect any building or structure in any zone, except in a Limited Service Residential Zone or Special Limited Service Residential Zone, unless the lot upon which such building or structure is to be erected fronts upon a Township Road/Public Road/Street or County Road. For purposes of this By-law a Township Road/Public Road/Street or County Road does not include a Private Road, Summer Maintained Public Road, Un-assumed Public Road or an Unopened Public Road Allowance as defined herein. The above provisions shall not apply to prohibit the erection of any building on a lot on a registered plan of subdivision where a subdivision agreement has been entered into but the streets will not be assumed until the end of the maintenance period. Refer to Appendix 'A' Civic Address Map for the location of roads classified Township Road/Public Road/Street or County Road. This section does not apply to non-residential buildings or structures accessory to a permitted farm. (By-law 2008-26)

Where a property has frontage on a year-round Municipally maintained or County maintained road, that property must be accessed by an entrance onto the year-round Municipally maintained or County maintained road.

5.9 Development on Summer Maintained Public Road

No person shall erect any building or structure, except for a non-residential building or structure accessory to a permitted farm, on a lot with frontage on a Summer Maintained Public Road unless the lot is zoned Special Limited Service Residential (LSR) Zone and provided the owner has entered into an agreement with the Township, as a condition of Site Plan Approval, acknowledging that the road is not maintained on a year round basis and that there is no intent by the Township to maintain it on a year round basis in the future and that access by municipal emergency service vehicles is restricted in the winter months. In the event of an emergency, the Township will make every attempt to respond in an expeditious manner but because of the properties' location on a private road, response may be delayed.

5.10 Development on an Un-Assumed Public Road

Development on an un-assumed public road may be permitted in accordance with the applicable zone and the general provisions of this by-law.

5.11 Development on an Unopened Public Road Allowance

Development shall not be permitted on lots with frontage only on an unopened public road allowance.

5.12 Dwelling Unit as an Accessory Use in a Non-Residential Setting

No person shall use any lot or erect, alter or use any building or structure for purposes of a dwelling or dwelling unit where the zoning is not residential except in accordance with the following regulations:

- a) In agricultural zones, a single detached dwelling may be permitted with a private water supply and sewage disposal system having the approval of the Ministry of the Environment and/or Approval Authority, as provided in certain non-residential zones; or
- b) In a Commercial zone, one dwelling unit shall be permitted in a non-residential building provided it is located on the second storey of such building, or at the rear of such building if on the main floor.

5.13 Existing Undersized Lots

Where a lot having a lesser lot area and/or lot frontage than that required herein is held under distinct and separate ownership from abutting lots, as shown by a registered conveyance in the records of the Registry or Land Titles Office on the

date of passing of this By-law, or where such a lot is created as a result of an expropriation, such smaller lot may be used and a building or structure may be erected, altered or used on such smaller lot, provided that the parcel has a minimum frontage of 7.5 metres (24 feet), provided that an adequate supply of potable water is available to service the proposed use, provided such erection, alteration or use does not contravene any other provisions of this by-law and provided that all relevant regulations made under the Health Protection and Promotion Act and all relevant sewage disposal requirements under the Ontario Building Code are complied with.

5.14 Fire Wood Processing Operations (By-law 2016-46)

- a) The importation of any raw materials shall be consistent with the Canadian Food Inspection Agency regulations, as amended;
- b) The exportation (delivery and/or customer pick-up) of the final value-added product shall be consistent with the Canadian Food Inspection Agency regulations, as amended;
- c) All operations shall be consistent with the Township of Hamilton Noise By-law, as amended;
- d) All operations shall be consistent with the Township of Hamilton Property Standards By-law, as amended;
- e) All operations shall be consistent with the Northumberland Forest Conservation By-law, as amended;
- f) The minimum setback from any water course/Environmental Protection (EP)/Environmentally Sensitive Area (ESA) zone or Natural Hazard/ Provincially Significant Wetland designation shall be 30 metres (100 feet);
- g) All operations shall be consistent with the 1/2 load road restrictions for importing/exporting product as per the Township of Hamilton By-law 1998-20, as amended;
- h) Maximum of 1 operation shall be permitted per separately conveyable lot;
- i) Medium Scale operations may be permitted on lots in Agricultural or Rural designated areas with a minimum size of 2.02 hectares (5 acres);
 - i. The minimum setback from any neighbouring residential use or residential zone shall be 91.44 metres (300 feet);
 - ii. The final value-added product may be sold at the farm gate but the majority shall be delivered;
 - iii. Site Plan approval is required subject to the following:
 1. A scaled Site Plan sketch shall be drawn up by the proponent, to the satisfaction of the Township of Hamilton, and submitted together with any other required information to the Township of Hamilton Planning Department for review by the Site Plan Review Committee to determine compliance with all required governing documents prior to the establishment of the operation;
 2. A Site Plan Agreement with the Township is required to be entered prior to the establishment of the operation;
 3. The Site Plan Agreement may deal with issues such as noise control, days and hours of operation, and any other issues deemed appropriate by the Township;
 4. Berms or tree buffers shall be provided between this use and any existing incompatible uses; and

5. Proof of current Open Air Burning Permit as per By-law 2014-19 and/or its successors, or in the alternative, a detailed explanation of other means of disposal of waste product that will be utilized by the proponent, to the satisfaction of the Township.

j) Large Scale operations may be permitted on lots in Agriculture or Rural designated areas with a minimum size of 10.17 hectares (25 acres);

i. The minimum setback from any neighbouring residential use or residential zone shall be 213.36 metres (700 feet);

ii. The final value-added product may be sold at the farm gate but the majority shall be delivered; and

iii. Site Plan Approval is required subject to the following:

1. A scaled Site Plan sketch shall be drawn up by Ontario Land Surveyor or Engineer, to the satisfaction of the Township of Hamilton, and submitted together with any other required information to the Township of Hamilton Planning Department for review by the Site Plan Review Committee to determine compliance with all required governing documents prior to the establishment of the operation;

2. A Site Plan Agreement with the Township is required to be entered and shall be registered on the title of the property by the proponent at the sole expense of the proponent. A copy of the registered document shall be submitted to the Township prior to the establishment of the operation;

3. The Site Plan Agreement may deal with issues such as noise control, days and hours of operation, and any other issues deemed appropriate by the Township;

4. Berms or tree buffers shall be provided between this use and any existing incompatible uses; and

5. Proof of current Open Air Burning Permit as per By-law 2014-19 and/or its successors, or in the alternative, a detailed explanation of other means of disposal of waste product that will be utilized by the proponent, to the satisfaction of the Township.

The foregoing does not prohibit individual property owners from processing small quantities of firewood (maximum of 1 load/15 cords per calendar year) subject to Section 5.45 a) through h) inclusive.

5.15 Garden Suites

Notwithstanding the provisions of Section 5.5.3 of the By-law to the contrary, garden suites shall be permitted subject to the following requirements;

a) The gross floor area of living space in such dwelling shall consist of a minimum of 49 square metres (527.4 square feet) and a maximum of 65 square metres (699.7 square feet);

b) The dwelling unit shall be self contained and shall have a private entrance and separate culinary, sanitary, dining and sleeping area;

c) The sanitary sewage disposal, water supply and electrical services for the dwelling unit shall be derived from and connected to the services of the single detached dwelling upon which lot the garden suite is situated, subject to the approval of the authorities responsible for the various services;

d) All of the provisions of the respective zones in which the garden suite is situated shall be complied with in addition to the following special criteria:

- i. Rear Yard - 4.5 metres (14.8 feet) minimum;
 - ii. Building Height - 4.5 metres (14.8 feet) maximum; and
 - iii. Separation Distance from the Principal Dwelling - 4.5 metres (14.8 feet) maximum.
- e) The owner/occupant of the detached dwelling and occupant of the garden suite upon which lot the garden suite is situated enter into an agreement with the municipality pursuant to the Municipal Act stating that the owner of the detached dwelling and the occupant of the garden suite are related by blood or marriage, the age of the occupant of the garden suite, that no other individual(s) will occupy the garden suite and that the garden suite will be removed when it is no longer needed;
 - f) Access from a public road to a garden suite shall be obtained by the driveway serving the principal dwelling on the lot;
 - g) A garden suite shall be located behind the principal dwelling house on the property;
 - h) The placement of a garden suite on a lot shall be subject to site plan control pursuant to the Planning Act to ensure all servicing, buffering, parking and other issues are addressed;
 - i) A temporary use zoning by-law is passed by Council in accordance with the provisions of the *Planning Act*. The by-law shall be in place for a period not exceeding ten (10) years.

5.16 Group Homes

Group Homes are permitted in the zones as indicated in this By-law subject to the following requirements;

- a) In addition to the minimum parking requirements of Section 5.31, one additional parking space shall be provided for each attendant or staff member who resides outside of the group home; and
- b) All the provisions of the respective zones in which the group home is situated shall be complied with.

5.17 Health Approval

No building permit shall be issued for any building or structure which requires a septic system unless the building permit application is accompanied by approval in writing from the appropriate responsible authority for the proposed method of sewage disposal.

5.18 Height Exceptions

Notwithstanding the height provisions herein contained, nothing in this By-law shall apply to prevent the erection, alteration, or use of the following accessory buildings or structures provided the principle use is a use permitted with the Zone in which it is located, namely:

- A church spire
- A belfry
- A flag pole
- A clock tower
- A chimney
- A water tank
- A radio or television tower or antenna
- An Air conditioner duct
- A barn or silo
- A Drying elevator

- Incidental equipment required for processing
- External equipment associated with internal building equipment

5.19 Holding Zones

Where any zone symbol as shown on Schedules A and M is followed by the symbol "H", this signifies that no person shall use any land, erect, alter, enlarge, use or maintain any building or structure until such time as the holding symbol has been removed by the Township in accordance with the provisions of the Planning Act. Upon removal of the holding symbol the permitted use of the subject property and the erection of any buildings or structures thereon shall be undertaken in accordance with the provisions of the underlying zoning category.

5.19.1. Zone Regulations

Uses legally existing prior to the passing of this By-law and accessory uses thereto may be enlarged, reconstructed, renovated or replaced in accordance with the relevant zone regulations where such use is normally permitted.

5.19.2. General Provisions

All special provisions of this Section 5 "General Provisions" shall apply, where Applicable to any land, lot, building, structure or use within zones subject to the aforementioned "Holding" criteria.

5.20 Home Industry

Home industries are categorized as Type 'A' and Type 'B' home industries. Home industries Type 'A' and Type 'B' are permitted in the zones as indicated in this By-law in accordance with the following:

- a) There is no external storage of goods or materials;
- b) Refer to the Township of Hamilton's Sign By-law for property line setbacks and restrictions.
- c) The home industry is clearly secondary to the main residential use and does not change the residential character of the dwelling nor create or become a public nuisance; in particular in regard to noise, noxious odours, emission of smoke, traffic or parking;
- d) The home industry does not interfere with television or radio reception;
- e) There are no goods, wares or merchandise, publicly offered or exposed for sale on the premises outside of any buildings;
- f) On site parking is provided in accordance with Section 5.31;
- g) Home industries are subject to site plan approval by the municipality; and
- h) That a notice from the approving authority for sewage disposal under the Ontario Building Code be received indicating that the sewage disposal requirements have been met.

5.20.1 Additional Provisions for Type 'A' Home Industries

Type 'A' Home Industries shall include craft shops, woodworking, repair and service shops and similar type uses and associated retail sales in accordance with the following:

Any accessory structure used for a Type 'A' home industry shall use not more than 39 square metres (420 square feet) of the structure;

Not more than one (1) person not residing in the residence on the lot shall be permitted;

Type 'A' and 'B' Home Industries may locate within accessory structures erected prior to the passing of Zoning By-law No. 2001-58 and which exceed the maximum size requirement provided these requirements have been met:

Subject to change of use approval; and

Subject to site plan/floor plan approval.

5.20.2 Additional Provisions for Type 'B' Home Industries

Type 'B' Home Industries shall include mechanics, craft shops, woodworking, light manufacturing including farm equipment fabrication, repair and service shops and other similar type uses and associated retail sales 'maximum of 10% of the exclusively dedicated floor area' in accordance with the following: (By-law 2008-26)

- a) The minimum lot size for a Type 'B' home occupation shall be 2 hectares (4.94 acres);
- b) Not more than two (2) persons not residing in the residence on the lot and employed by the home industry shall be permitted;
- c) One commercial vehicle associated with the home industry is permitted;
 - i. On lots between 2.0 hectares (4.9 acres) and 2.4 hectares (6.0 acres) in size, the accessory structure or part thereof within a building which was erected prior to the passing of this by-law used for Type 'B' home industry shall not exceed 55.75 square metres (600 square feet) and shall be located not closer than 15.2 metres (50 feet) from any lot line; in addition, all Type 'B' home industry accessory structures shall be subject to the provisions of Section 5.25;
 - ii. On lots between 2.47 hectares (6.1 acres) and 4.0 hectares (10 acres) in size, the accessory structure or part thereof within a building which was erected prior to the passing of this by-law used for Type 'B' home industries shall not exceed 92.9 square metres (1,000 square feet) and shall be located not closer than 20 metres (66 feet) from any lot line; in addition, all Type 'B' home industry accessory structures shall be subject to the provisions of Section 5.25;
 - iii. On lots 4.1 hectares (10.1 acres) and larger in size, the accessory structure or part thereof within a building which was erected prior to the passing of this by-law used for Type 'B' home industries shall not exceed 139.4 square metres (1,500 square feet) and shall be located not closer than 25 metres (82 feet) from any lot line; in addition, all Type 'B' home industry accessory structures shall be subject to the provisions of Section 5.25;
- d) Type 'A' and 'B' Home Industries may locate within accessory structures erected prior to the passing of Zoning By-law No. 2001-58 and which exceed the maximum size requirement provided these requirements have been met:
 - i. Subject to change of use approval; and
 - ii. Subject to site plan/floor plan approval

5.21 Home Occupations

Home occupations are categorized as Type 'A' and Type 'B' home occupations. Home occupations Type 'A' and Type 'B' are permitted in the zones as indicated in this By-law in accordance with the following:

- a) There is no display, other than a sign of a maximum size of .55 square metres (6.0 square feet) to indicate to persons outside that any part of the dwelling is

being used for a purpose other than residential. Refer to the Township of Hamilton's Sign By-law for property line setbacks and restrictions.

- b) Such home occupation is clearly secondary to the main residential use and does not change the residential character of the dwelling nor create or become a public nuisance; in particular, in regard to noise, obnoxious odours, emission of smoke, traffic or parking;
- c) Such home occupation does not interfere with television or radio reception;
- d) Not more than 25 percent of the gross floor area of the dwelling is used for the purposes of home occupation uses except in the case of a bed and breakfast establishment in which situation the provisions of subsection 5.29.3 shall apply; and/or
- e) That a notice from the approving authority for sewage disposal under the Ontario Building Code be received indicating that the sewage disposal requirements have been met.

5.21.1 Additional Provisions for Type 'A' Home Occupations

Type 'A' home occupations shall be conducted entirely within the principal residence and shall be limited to administrative office type uses only and may employ one (1) employee other than those residing in the dwelling.

5.21.2 Additional Provisions for Type 'B' Home Occupations

Type 'B' home occupations shall be conducted entirely within the principal residence and shall be limited to personal service and medical occupations such as hairdressers, day nurseries limited to 5 children or less, doctors and dentist's offices and may employ one (1) person in addition to persons residing in the residence.

5.21.3 Additional Provisions for Bed and Breakfast as a Home Occupation

Where a bed and breakfast establishment is established as a home occupation, no more than 3 guest rooms shall be maintained for the accommodation of the public.

5.22 Lands in the Vicinity of Watercourses or Embankments

Notwithstanding anything in this By-law, no permit shall be issued for any building to be constructed within those areas outlined in subsections 5.8.1, 5.8.2 and 5.8.3 herein without the prior written approval of the Conservation Authority, the Ministry of Natural Resources and/or the Canadian Parks Service having jurisdiction.

5.22.1 No building or structure shall be located within the flood plain of a watercourse, including a municipal drain, except where a municipal drain forms part of a road allowance, notwithstanding that such watercourse is not shown on any schedule forming part of this By-law.

5.22.2 Notwithstanding anything in this By-law, no building, structure, or septic tank installation including the weeping tile field shall be located outside the requirements of:

- a) The provisions of *The Building Code Act*; and/or
- b) Conservation authority regulations.

5.22.3 The provisions of subsections 5.8.1 and 5.8.2 shall not apply to buildings, structures and services requiring direct access to the water as an operational necessity such as a boathouse, marina, marina service building or facility, or other similar structure.

5.23 Lands Severed by Public Utility Lines

Where lands are acquired for purposes of a public utility line and such acquisition deprives a parcel of land of street frontage, the part of such parcel so deprived of street frontage shall be deemed for purposes of this By-law to have frontage on such street providing the land has a permanent right of access to such street.

5.24 Loading Space Requirements

No person shall erect or use any building or structure in any zone for any commercial or industrial purpose involving the movement of goods unless loading spaces are provided and maintained in accordance with the following provisions:

Area of Building	Loading Space
280 to 930 square metres	One (1) loading space
1400 square metres or fraction thereof in excess of 930 metres	Two (2) loading spaces plus one (1) additional loading space

- a) Each loading space shall be at least 9.0 metres long, 3.5 metres wide and have a vertical clearance of least 4.0 metres.
- b) The required loading spaces shall be provided on the lot occupied by the building or structure for which the said loading spaces are required and shall not form a part of any street or lane.
- c) For any commercial or industrial use, no loading space or part thereof shall be located, and no land shall be used for loading purposes within 1.5 metres (4.9 feet) of any lot line, or within 3 metres (9.8 feet) of any street line or boundary of any Residential zone, or within 3 metres (9.8 feet) of the lot line of a residential use.
- d) Access to loading spaces shall be by means of a driveway at least 6 metres (19.7 feet) wide contained within the lot on which the spaces are located and leading to a street or lane located within or adjoining the zone in which the use is located.
- e) The driveways and loading spaces shall be maintained with a stable surface which is treated so as to prevent the raising of dust or loose particles.
- f) The loading requirements referred to herein shall not apply to any building in existence at the date of enactment of this By-law so long as the gross floor area as it existed at the date is not increased. If an addition is made, then additional loading spaces shall be provided up to the number required for such addition.

5.25 Multiple Uses on One Lot

Notwithstanding anything contained in this By-law, where any land or building is used for more than one purpose, all provisions of this By-law relating to each use shall be complied with, provided that no dwelling shall be located closer than three (3) metres (9.8 feet) to any other building on the lot except a building accessory to such dwelling. A dwelling or dwelling unit as an accessory use will be allowed where permitted by this By-law in accordance with Section 5.19.

5.26 Non-Complying Buildings and Structures

Building on Existing Lots

Where a building has been erected prior to the date of the passing of this By-law on a lot having less than the minimum frontage and/or area, or having less than the minimum front yard, side yard, rear yard or usable open space required by this By-law, the said building may be enlarged, reconstructed, repaired or renovated provided said enlargement, reconstruction, repair or renovation does

not serve to further reduce a required yard or required usable open space and provided all other provisions of this By-law are complied with.

5.26.1 Building Floor Area

Where a building has been erected prior to the date of the passing of this By-law with a gross or ground floor area less than the minimum required in the applicable zone of this By-law, such building may be enlarged, repaired or renovated provided said repair or renovation does not further reduce the building's gross or ground floor area.

5.27 Non-Conforming Uses

5.27.1 Continuation of Existing Uses

The provisions of this By-law shall not apply 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 day of passing of this By-law, so long as it continues to be used for that purpose.

5.27.2 Building Permit Issued

The provisions of this By-law shall not apply to prevent the erection or use for a purpose prohibited by this By-law of any building or structure, the plans for which have prior to the passing of this By-law been approved and a permit issued by the Township of Hamilton's Chief Building Official 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 that the erection of such a building or structure is commenced within one year after the day of the passing of this By-law and the building or structure is completed within a reasonable time after the erection thereof is commenced.

5.27.3 Restoration to a Safe Condition

The provisions of this By-law shall not apply to prevent the strengthening to a safe condition of any non-conforming building or structure or part thereof provided such strengthening generally does not increase the height, size or volume, of such building or structure.

5.27.4 Rebuilding, Repair or Strengthen to Safe Condition Permitted on Lands Zoned as Environmental Protection.

a) Nothing in this By-law shall prevent the rebuilding or repair of any legal non-conforming building or structure that is damaged or destroyed, or the strengthening to a safe condition of any building or structure which does not conform to the provisions of this By-law, subsequent to August 1, 1993, provided that the dimensions of the original building or structure are not increased and the use of the building or structure not altered.

b) Wetlands Within Developed Areas

- i. Provincially significant wetlands within the Township of Hamilton have been zoned Environmental Protection-Wetland.
- ii. Notwithstanding any other provisions of this By-law to the contrary, all lands exhibiting a Zone category with the (-W) sub-category may continue to be used for those uses existing as of August 1, 1993.
- iii. New building, structures or uses, or additions, alternations or replacement of existing buildings or structures notwithstanding Section 5.11 hereof to the contrary shall only be permitted where an Environmental Impact Study (EIS) or a Site Plan assesses to the satisfaction of the municipality, the Ministry of Natural Resources, the Conservation Authority, the Health Unit and Trent Severn Waterway (if on or adjacent to Rice Lake) that the proposed development will have no impact on the Wetland.

c) Wetland - Adjacent Lands

- i. All lands zoned Environmental Protection-Wetland (EP-W) represent provincially significant wetlands.
- ii. New buildings, structures or uses or additions, alternations or replacement of existing buildings or structures shall only be permitted within 120 metres of lands zoned EP-W where an Environmental Impact Study (EIS) or a Site Plan assesses to the satisfaction of the municipality in consultation with the Ministry of Natural Resources, and the Conservation Authority, the Health Unit and Trent Severn Waterway that the proposed development will have no impact on the adjacent Wetland. In accordance with the Provincial Policy Statement, new buildings, structures and uses or additions, alterations or replacement of existing buildings or structures, associated with established agricultural activities shall be permitted without the need for an Environmental Impact Study on lands adjacent to a Provincially Significant Wetland.

5.28 Oak Ridges Moraine Provisions

5.28.1 Single Detached Dwelling Permitted

Notwithstanding any provision of this By-law, a single detached dwelling is a permitted use, as a principal use on lands identified as PA, MA, ER, RR, LSR, WR, UR1, UR2 and as an accessory use on lands identified as RC, RHC, WRC, RI, MXA, MXB, OS, HC, HI, WRC and CF on Schedule 'M' to this By-law within the Oak Ridges Moraine Conservation Plan Area provided the single detached dwelling complies with all other provisions of the applicable zone and further, the applicant submits information at the time of building permit application that the use, erection and location will not, to the extent possible, adversely affect the ecological integrity of the Oak Ridges Moraine. This information may include a natural heritage evaluation and/or hydrological evaluation completed in accordance with the Oak Ridges Moraine Conservation Plan and will be approved by the Township in consultation with the local Conservation Authority. Approval of the development is subject to site plan approval by the Township.

5.28.2 Prohibited Uses

The following uses are prohibited on lands located within the Oak Ridges Moraine Conservation Plan Area:

- a) Generation and storage of hazardous waste or liquid industrial waste.
- b) Waste disposal sites and facilities, organic soil conditioning sites and snow storage and disposal facilities.
- c) Underground and above-ground storage tanks that are not equipped with an approved secondary containment device.
- d) Storage of a contaminant listed in Schedule 3 (Severely Toxic Contaminants) to Regulation 347 of the Revised Regulations of Ontario, 1990.

5.28.3 Expansion of Existing Buildings and Structures

- a) The expansion of legally existing buildings and structures constructed prior to November 15, 2001 is permitted on the same lot, provided that the applicant demonstrates that:
 - i. There will be no change in use; and
 - ii. The expansion will not adversely affect the ecological integrity of the Plan Area.

- b) Where the expansion of an existing building or structure or the establishment of an accessory use, building or structure intrudes on areas within the Oak Ridges Environmental Zone or the Oak Ridges Moraine Environmental Plan Review areas as shown on Schedules 'A' and M, the applicant shall submit a natural heritage evaluation and/or a hydrological evaluation completed in accordance with the Oak Ridges Moraine Conservation Plan and will be approved in conjunction with the local Conservation Authority. Approval of the development is subject to site plan approval by the Township.

5.28.4 Mineral Aggregate Operation

Notwithstanding the provisions of this By-law, existing mineral aggregate operations or existing wayside pits within the Oak Ridges Moraine Core Zone may not be expanded beyond the boundary of the area under licence or permit.

5.28.5 Areas of High Aquifer Vulnerability

Notwithstanding any other provisions of this By-law to the contrary, the following uses are prohibited within an Area of High Aquifer Vulnerability as indicated by the zone shown on Schedule "L" attached hereto and forming part of this By-law:

- a) Generation or storage of hazardous or liquid industrial waste;
- b) Waste disposal sites and facilities, organic soil conditioning sites, and snow storage and disposal facilities;
- c) Underground or above-ground storage tanks that are not equipped with an approved secondary containment device; and
- d) The use, creation, handling or storage of alfatoin, tetrachlorodibenzo-p-dioxin, pentachlorodibenzo-p-dioxin, hexachlorodibenzo-p-dioxin, or tetrachlorodibenzo furan, or other containments listed in Schedule 3 (Severely Toxic Contaminants) to Regulation 347 of the Revised Regulations of Ontario, 1990.

5.28.6 Landform Conservation Area

- a) Notwithstanding any other provisions of this By-law to the contrary, the following provisions shall apply within a Landform Conservation Area (Category 1) as indicated on Schedule "K" attached hereto and forming part of this By-law.
 - i. The net developable area of the site that is disturbed shall not exceed twenty (25) percent of the total site area; and
 - ii. The net developable area of the site that has impervious surfaces shall not exceed 15 percent of the total site area.
- b) Notwithstanding any other provisions of this By-law to the contrary, the following provisions shall apply within a Landform Conservation Area (Category 2) as indicated on Schedule "K" attached hereto and forming part of this By-law.
 - i. The net developable area of the site that is disturbed shall not exceed fifty (50) percent of the total site area; and
 - ii. The net developable area of the site that has impervious surfaces shall not exceed twenty (20) percent of the total site area.

5.28.7 Infiltration Basins and Columns

New rapid infiltration basins and new rapid infiltration columns as defined in Section 3B of this By-law, are prohibited on lands within the Oak Ridges Moraine Plan Area, as shown on Schedule "A" to this By-law.

5.28.8 Transportation Infrastructure and Utilities

- a) Notwithstanding any other provisions of this By-law to the contrary, all new transportation, infrastructure and utilities uses listed below, and all upgrading or extension of existing transportation, infrastructure and utilities uses, including the opening of a road within an unopened road allowance, are prohibited on lands within an Oak Ridges Environmental Zone as shown on Schedule "A" to this By-law:
- i. Public highways;
 - ii. Transit lines, railways and related facilities;
 - iii. Gas and oil pipelines;
 - iv. Sewage and water service systems and lines and stormwater management facilities;
 - v. Power transmission lines;
 - vi. Telecommunications lines and facilities, including broadcasting towers;
 - vii. Bridges, interchanges, stations, and other structures, above and below;
 - viii. Ground, that are required for the construction, operation or use of the facilities listed in Clauses (i) to (vi) above; and
 - ix. Rights-of-way required for the facilities listed in Clauses (i) to (vii) above.
- b) Notwithstanding Section 5.43.8 i) of this By-law to the contrary, publicly initiated transportation, infrastructure, and utilities uses may be permitted to cross an Oak Ridge Environmental Zone, as shown on Schedule "A" of this By-law in accordance with all applicable policies of the Official Plan.

5.28.9 Oak Ridge Moraine

- a) Notwithstanding any other provisions of this By-law to the contrary, lands zoned Oak Ridge Moraine Environmental may be included in the calculation of any zone provisions for adjoining lands, provided that such lands used in the calculation are part of the same lot.
- b) Notwithstanding any provision of this By-law to the contrary, all development shall comply with all applicable Official Plan policies related to the Oak Ridges Moraine Conservation Plan Area.
- c) Where there is a conflict between this By-law and the *Oak Ridges Moraine Conservation Act*, or the Oak Ridges Moraine Conservation Plan, the more restrictive provisions shall prevail.

5.29 Obnoxious Uses

Notwithstanding anything contained herein, no land shall be used and no building or structure shall be erected, altered or used for any purpose which is obnoxious, and without limiting the generality of this subsection, for any purpose that creates or is likely to become a nuisance or offensive, or both;

- a) By the creation of noise or vibration in excess of the limits of *The Environmental Protection Act*;
- b) By reason of the emission of gas, fumes, smoke, dust or objectionable odour in excess of the limits of *The Environmental Protection Act*, except in the case of agricultural uses operating in compliance with the Guide to Agricultural Land Use;

- c) By any combination of those described in Clauses 5.21(a) and 5.21(b) of this subsection.
- d) Other obnoxious uses as outlined in the Municipal Property Standards By-law.

5.30 Off Street Parking Provision

For every building or structure to be erected for, altered for, or its use converted to any of the uses specified in the following table, off-street parking facilities shall be provided and maintained either on the same lot on which the principal use is located or, where this is not possible, on a lot within 60 metres (196.9 feet) of the lot on which the principal use is located and in accordance with the following table and other provisions contained in this subsection unless otherwise specifically provided.

5.31 Outdoor Woodburning Furnaces

Notwithstanding any other provision of this By-law to the contrary, an outdoor wood burning furnace shall only be permitted to be located within Permanent Agriculture and Marginal Agriculture Zones and shall comply with the following regulations:

- a) Minimum setback from:
 - i. A lot line abutting a residential land use district permitting a single or two unit dwelling 60 metres (196.9 feet); and
 - ii. Any other lot line 30 metres (98.4 feet).
- b) The installation of such unit shall require a building permit.

5.32 Parking Provisions

5.32.1 Parking Space Requirements

Type or Nature of Use	Minimum Off-Street Parking Requirements
Assembly Halls including Lodges, Labour Union Halls, Dance Halls, Community Centres, Theatres, Churches and Place of Worship;	One (1) space for every three (3) persons of maximum design capacity.
Automotive Sales Establishment (new or used);	Minimum of ten (10) spaces plus one (1) space for every employee working on the premises during the peak business period for Automotive Sales Establishment (new or used).
Boarding or Rooming House, Bed and Breakfast or Tourist Home;	One (1) space for each bedroom.
Bowling and Billiard Establishments;	One (1) space for every two (2) persons of design capacity. Design capacity shall mean six (6) persons per bowling lane and two (2) persons per billiard table.

Type or Nature of Use	Minimum Off-Street Parking Requirements
Business or Professional Offices;	One (1) space for every twenty-three (23) square metres (247.6 square feet) of gross floor area or where such conflicts with the office of a doctor or dentist, there shall be a minimum of three (3) parking spaces provided on the same lot.
Club (private or commercial) or Recreational Establishment;	One (1) space for every three (3) persons to be accommodated in the design capacity of the building.
Funeral Home;	One (1) space for every three (3) chapel seating spaces or fraction thereof with a minimum of 10 spaces.
Government or Public Utility Buildings;	One (1) space for every twenty-three (23) square metres (247.6 square feet) or gross floor area.
Home Occupation or Home Industry;	One (1) space for every eighteen (18) square metres (193.8 square feet) or floor area devoted to the use of a Home Occupation or Home Industry.
Nursing Homes;	One (1) space for every two (2) beds in a Hospital (public or private).
Hotel, Motel, Inn or Resort;	One (1) space for every guest room and one (1) space for every eight (8) square metres (86.1 square feet) of gross floor area devoted to public use.
Industrial Establishment;	One (1) space for every thirty-seven (37) square metres (398.3 square feet) of gross floor area.
Marina;	One (1) space for every 2 docking berths.
Post Offices, Museums, Art Galleries & Libraries;	One (1) space for every thirty-seven (37) square metres (398.3 square feet) of gross floor area.
Residential Dwelling Unit;	Two (2) spaces.
Restaurant, Tavern, banquet Hall, Beverage Room, Lodge or Meeting Area, excluding a Take-Out Restaurant;	One (1) space for every four and one half (4.5) square metres (48.4 square feet) of public floor area or one (1) space
for every four (4) persons of design capacity, whichever is the greater with a minimum of 10 spaces.	
Retail Lumber and Building Supply Outlets;	One (1) space for every twenty-eight (28) square metres (301.4 square feet) of retail floor space with a minimum of 6spaces.
Retail, Wholesale Sales, Service Establishment or Studios	One (1) space for every twenty-eight (28) square metres (301.4 square feet) of gross floor area.
Assembly hall or auditorium in Schools;	One (1) space per classroom, and one space for each 10 people of maximum design capacity.

Type or Nature of Use	Minimum Off-Street Parking Requirements
Senior Citizen Multiple Dwellings;	Up to 30 dwelling units, parking spaces shall equal 50% of the number of dwelling units. Between 30 & 60 units, parking spaces shall equal 40% of the number of dwelling units.
Take-Out Restaurants;	One (1) space for every two (2) square metres (21.5 square feet) of gross floor area.
Retail Lumber and Building Supply Outlets;	One (1) space for every twenty-eight (28) square metres (301.4 square feet) of retail floor space with a minimum of 6 spaces.
Retail, Wholesale Sales, Service Establishment or Studios;	One (1) space for every twenty-eight (28) square metres (301.4 square feet) of gross floor area.
Schools;	One (1) space per classroom, and one space for each 10 people of maximum design capacity of the assembly hall or auditorium.
Senior Citizen Multiple Dwellings;	Up to 30 dwelling units, parking spaces shall equal 50% of the number of dwelling units. Between 30 & 60 units, parking spaces shall equal 40% of the number of dwelling units.
Take-Out Restaurants;	One (1) space for every two (2) square metres (21.5 square feet) of gross floor area.
One (1) space for every twenty-eight (28) square metres (301.4 square feet) of gross floor area for uses permitted by this By-law other than those listed above but excluding accessory uses to single detached dwellings; and	
Warehouse or Bulk Storage Yards	One (1) space for every employee working on the premises during the peak business period.

5.32.2 Handicap Parking

Handicap parking spaces shall be provided for all commercial uses listed in Section 5.31.1 at the rate of 1 space per 500 square metres (5,382.0 square feet) with a minimum of 2 spaces. Handicap parking spaces should be a minimum of 3.5 metres (11.5 feet) wide and be located in close proximity to the commercial establishment.

5.32.3 Restrictions in Residential Zones

No person shall use any parking area or parking space in a UR1 or UR2 Zone except in accordance with the following:

- a) Not more than one vehicle per dwelling unit shall be a commercial vehicle as defined in *The Highway Traffic Act*; and/or
- b) The rated capacity of any such commercial motor vehicle shall not exceed one ton.

5.33 Planned Width of Road

5.33.1 Notwithstanding any other provision contained in this By-law, no building or structure shall be hereafter erected in any zone closer than:

- a) The requirement set out in the County By-law; for county roads and
- b) From the requirement set out by The Township of Hamilton Public Works department for township roads.

5.33.2 Notwithstanding the provisions of this by-law to the contrary, where a building, structure or accessory use thereto is to be erected in a built-up area where there is an established building line less than the required front yard and/or exterior side yard requirement, such dwelling or accessory use is not to be erected closer to the street line or to the centre line of the road or street, as the case may be, than the established building line on the date of passing of this By-law.

This provision shall not apply to those lands zoned Permanent Agriculture and Marginal Agriculture.

5.34 Prohibited Uses

5.34.1 Except as otherwise specifically permitted in this By-law, the following uses are prohibited in any zone;

Refining coal oil or petroleum products;

- a) Tanning hides or skins;
- b) Manufacturing gas;
- c) manufacturing glue;
- d) A track for the racing of motor vehicles, motorcycles, go-carts or snowmobiles; and
- e) Locating or storing on any land for any purpose whatsoever, any disused railroad car, truck, bus or coach body, whether or not the same is situated on a foundation.

5.34.2 In addition to the uses prohibited in Clause 5.20.1 of this subsection, any use is prohibited which by its nature or the materials used therein is declared under *The Health Protection and Promotion Act* to be a health hazard.

5.34.3 In addition to the uses prohibited in Clause 5.20.1 of this subsection, all uses of land and the erection or use of any building or structure for a purpose not permitted under the "Permitted Principal Use" subsection of one or more zones established by this By-law are and shall be deemed to be prohibited in each such zone, except for those uses of land and the erection or use of any building or structure for a purpose expressly permitted under the applicable provisions of this By-law.

5.35 Prohibitions

5.35.1 No person shall use any land or erect any building or structure within a zone except for a permitted use established or erected in accordance with the regulations provided by this By-law for the zone in which it is located.

5.35.2 No person, except a public authority engaged in the implementation of public works or services shall reduce in area or frontage any lot already built upon, either by conveyance or alteration, so that the lot coverage of the building exceeds the maximum permitted by this By-law, or so that the area or frontage of the lot will be less than the minimum permitted by this By-law for the zone in which the lot is located.

5.35.3 Except in a commercial or industrial zone, not more than one permitted use shall be allowed on a lot unless specifically permitted in this By-law. This section shall not prohibit the establishment of a home occupation or home industry in conjunction with a dwelling where such use is permitted.

- 5.35.4 The purpose for which any land or building is used shall not be changed, no new building or addition to any existing building shall be erected and no land shall be severed from a lot, if such change, erection or severance creates a situation that contravenes any of the provisions of this By-law applicable to each individual remaining building, accessory building or lot.
- 5.35.5 Except as otherwise provided in this By-law, no building or structure shall be erected, altered, extended or enlarged except upon a lot, nor shall any land be used for any permitted use unless it comprises a lot as defined herein; but this provision shall not prevent the use of any parcel or tract of land for agricultural purposes, excluding the erection or enlargement of any building or structure except a fence.
- 5.35.6 Removed
- 5.35.7 Notwithstanding anything contained in this By-law, no person shall use or occupy any building for residential purposes:
- a) Unless such building has been substantially completed and finished in all respects in accordance with the plans and specifications filed upon application for the building permit, and has an approved Occupancy Inspection by the Chief Building Official or designate; and
 - b) Unless such building is serviced with electricity, a pressure well water supply system, and an appropriate sanitary sewage disposal system.
- 5.35.8 Notwithstanding anything contained in the By-law, no person shall use any building, structure or land for any purpose that would have a negative impact on groundwater resources in the Township. As part of the building permit, severance or rezoning process, the applicant may be required to obtain Ministry of Environment and/or the Conservation Authority approval for any use.
- 5.35.9 Except as otherwise permitted in this by-law, no more than one principal dwelling shall be permitted per lot.
- 5.36 Public Uses and Utilities
- 5.36.1 Notwithstanding anything contained in this By-law, the Township of Hamilton or any local board thereof, or any joint Board of two or more municipalities, any telephone or telegraph company, any transportation system owned, operated, or authorized by or for the Township of Hamilton, any Department of the Federal or Provincial Government or any Conservation Authority established by the Government of Ontario, may, for purposes of public service, use any land or erect or use any building or structure in any zone except Environmental Protection-Wetland or Environmentally Sensitive Areas provided:
- a) That such use, building or structure, shall be in compliance with the height, coverage, landscaped open space and yard regulations prescribed for such a zone;
 - b) That there shall be no open storage of goods, materials, or equipment in the yards of any Residential Zone; and
 - c) That any building or structure erected or used in any Residential Zone shall be of a character and shall be maintained in general harmony with the buildings of the type permitted in the said zone.
- 5.36.2 Nothing in this By-law shall prevent the use of any land as a public park, a public street or for the location of a properly authorized traffic sign or signal, or any sign or notice of any Municipal, Provincial or Federal government department or authority.