

SECTION 5

GENERAL PROVISIONS

5.1 USES PERMITTED IN ALL ZONES

5.1.1 Essential Services and Utilities

The provisions of this By-law shall not limit or interfere with the construction and maintenance of streets, roads, curbs, gutters, bridges, sidewalks, steps, accessible access ramps and pedestrian corridors, water and gas pipelines and ancillary appurtenances mains and conduits, sanitary sewer main, storm sewer main, pumping station, water treatment plant, wastewater treatment plant, gas main, pipeline, storm water management facility, public water towers and reservoirs, electrical transmission lines and ancillary appurtenances and stations, telephone and telegraph lines and ancillary appurtenances, traffic control and safety devices, public communication or navigational devices and apparatus, lighting fixtures, transit facilities, erosion control works, dams, storm water control works, or other similar public service facilities on any lands subject to this By-law.

For the purposes of this provision, essential is defined as “that which is deemed necessary to the public interest after all alternatives have been considered”. Buildings for essential emergency services shall not be permitted to locate within the Hazard (ZH) Zone such that those services provided by fire, police and ambulance stations and electrical substations would be impaired during an emergency as a result of flooding, the failure of floodproofing measures and/or protection works, and/or erosion.

Notwithstanding for lands within the ZH zone, the use of any public land as a public park, playground, site for a statue, monument, cenotaph, fountain, or other memorial or ornamental structure shall be permitted subject to the provisions of 5.17.5.

Notwithstanding for lands within the Hazard (ZH) Zone where the Escarpment Natural Area designation of the Niagara Escarpment Plan is in place, only essential transportation and utility features are permitted. The City shall consult with the Niagara Escarpment Commission in such instances.

5.1.2 Temporary Buildings or Structures

Sheds, scaffolds, trailers, or other temporary buildings and structures incidental to and necessary for building construction on the premises and shall be permitted to locate anywhere on a lot, except within a Hazard Zone, for so long as the same is necessary for work in progress which has neither been finished or abandoned. The temporary use will be subject to the retention of a valid Building Permit where required.

5.1.3 Signs and Fences

Except for the provisions of Section 5.12 of this By-law, nothing in this By-law shall prevent the erection of a sign or fence in any zone subject to compliance with any sign by-law or fence by-law of the Corporation of the City of Owen Sound.

5.2 USES PROHIBITED IN ALL ZONES

No person shall use any land, building or structure in any zone:

- a) which due to its nature, or the materials used therein, or emissions issuing therefrom, is determined to be a noxious trade, business or manufacturing process;
- b) which is likely to create a public nuisance or danger to health or danger from fire or explosion except in accordance with the provisions and regulations under the Gasoline Handling Act; and
- c) for any of the following uses, either alone or in conjunction with other uses except as is otherwise specifically provided herein:
 - i) the boiling of blood, tripe, bones or soaps for commercial purposes;
 - ii) the manufacturing of glue or fertilizers from dead animals or from human or animal waste;
 - iii) an abattoir, stockyard, livestock exchange, or dead stock depot;
 - iv) the extracting of oil from fish or animal matter;
 - v) any use which causes the emission of corrosive gasses, toxic gasses or radioactive gasses or, into any zone other than an Industrial Zone, or electromagnetic fields, heat, glare, non-agricultural odours, noise, vibrations, dust, dirt, fly ash or smoke which does not comply with emission regulations as may be established from time to time by the Province of Ontario, the Government of Canada, or any agencies thereof;
 - vi) the use any travel trailer, caravan, boat, pick up camper, tent, converted bus, truck or motor home for human occupancy while stored or parked on any lot in any zone or on any street
 - ~~vii) a food and/or meat processing plant;~~
 - viii) an automotive wrecking and related storage yard;
 - ix) burying or disposal of garbage and refuse except by or for a public authority;
 - x) bulk open storage of inflammable or explosive liquids and gasses, coal or other material as a main use on a lot;
 - xi) the keeping or raising of livestock or wild animals in any residential zone unless otherwise permitted.

5.3 NON-CONFORMING USES

This By-law shall not apply to prevent,

- a) the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the By-law, so long as it continues to be used for that purpose; or
- b) the erection or use for a purpose prohibited by the By-law of any building or structure for which a permit has been issued under Section 8 of the Building Code Act, prior to the day of the passing of the By-law, so long as the building or structure when erected is used and continues to be used for the purpose for which it was erected and provided the permit has not been revoked under Section 8(10) of the Building Code Act.

5.4 CHANGES TO NON-CONFORMING USES

This By-law may be amended,

- a) Where any land, building or structure, on the day this By-law was passed, was lawfully used for a purpose prohibited by this By-law, the Committee of Adjustment for the City of Owen Sound, upon application to the Committee, may permit
 - i) the enlargement or extension of the building or structure, provided that the use that was made of the building or structure on the day this By-law was passed, or a use permitted under Sub-clause (ii) of Section 5.4 (a) of this By-law continued until the date of the application to the Committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day this By-law was passed; or
 - ii) the use of such land, building or structure for a purpose that, in the opinion of the Committee, is similar to the purpose for which it was used on the day this By-law was passed or is more compatible with the uses permitted by this By-law than the purpose for which it was used on the day this By-law was passed, provided that the use for a purpose prohibited by this By-law or another use or a purpose previously permitted by the Committee of Adjustment continued until the date of the application to the Committee.

5.5 RESTORATION AND REPAIR OF NON-CONFORMING USES

Nothing in this By-law shall prevent the restoration and repair of non-conforming uses where such building or structure is partially or totally destroyed by fire, explosion, collapse, act of God or other accidental cause, provided that:

- 1) the building or structure is occupied by the same use or a permitted use;

- 2) such restoration or repair is located on or within the limits of the foundation walls of the building as they existed prior to such destruction or in a location in closer conformity to the intent of the By-law; and
- 3) the height and floor area of such replacement does not exceed the height and floor area of the building as it existed prior to such destruction.

Nothing in this By-law shall apply to prevent the strengthening or restoration to a safe condition of a lawful non-conforming use, building or structure or part thereof so long as the strengthening or restoration does not increase the height, size, gross floor area or change the use.

5.6 NON-COMPLYING USES & LOTS WITH LESSER AREA OR FRONTAGE

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5.6.1 Non-Complying Uses

In any zone, any use legally existing on the effective date of this By-law which is recognized as a permitted use in the applicable zone shall be deemed to be in conformity with the provisions of this By-law, notwithstanding that building setbacks, required yards, lot coverage, building height, lot area and / or lot frontage, floor area, density, any other applicable site and building regulations and / or parking stall requirement regulations under this By-law may not be met.

Notwithstanding any other provisions of this By-law, where the foregoing applies, a change of use to any other use permitted within the applicable zone shall be permitted unless any of the site, building or parking requirements for the new use exceed the corresponding requirements for the former use, to which the new use shall comply prior to being permitted, unless otherwise permitted by this By-law.

Any addition to, expansion or re-development of any non-complying use shall conform to all applicable yard, setback, lot coverage, building height, floor area, density and parking stall requirement regulations, unless otherwise permitted by this By-law.

5.6.2 Existing Lots With Lesser Area Or Frontage

In any Zone where any existing lot of record has lesser lot area and/or lesser lot frontage than is otherwise required by this By-law, such a lot shall be deemed to conform to the requirements of this By-law with respect to the lot area and/or lot frontage, and the provisions of this By-law respecting lot area and lot frontage shall not apply to prevent a permitted use, building or structure provided that:

- 1) The lot can be serviced to the satisfaction of the City.
- 2) The lot provides a minimum lot frontage on an improved street of:
 - a) 4.0 m in the R1, R2, R3, R4, A, or RUR Zones;
 - b) 4.0 m for any Single Detached Dwelling, Semi Detached Dwelling, Duplex Dwelling, Townhouse Dwelling, or Converted Dwelling in the R5 or MR Zones;

- c) 7.5 m for all other permitted uses in the R5 or MR Zones;
 - d) 7.5 m in the C1, C2, C3, C4, C5, MC, M1, M2, MU, or I Zones;
 - e) 3.0 m in the ZH or OS Zones.
- 3) All other site and building regulations and other provisions of this By-law are met.

5.7 OPEN AND OUTDOOR DISPLAY

In any Commercial or Industrial zone, the open and outdoor display of goods, accessory to the main use, for sale or hire shall be permitted in accordance with the following provisions:

- 1) Shall not cover more than 40% of the lot area.
- 2) Shall not be located within a required front yard.
- 3) Shall not obstruct or occupy any required parking area.
- 4) Area to be constructed of a stable surface and treated to prevent erosion and the raising of dust and loose particles.
- 5) Area to be graded and drained so as to prevent the pooling of surface water or the flow of surface water onto adjacent lots.

In the Rural, Agricultural, Commercial and Industrial zones, the outdoor storage of goods, materials, and equipment, accessory to the main use, shall be permitted in accordance with the following provisions:

- 1) Located to the rear of the front wall of the main building, but not in a required side yard nor a required rear yard.
- 2) Not cover more than 40% of the lot area.
- 3) Shall be visually screened from the street and any abutting land zoned or used for residential or institutional purposes by a buffer strip in accordance with Section 5.23

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ZBA [15] 5.8 PERMITTED YARD ENCROACHMENTS

For purposes of Section 5.8 of this By-law, a required yard shall be deemed to include any yard existing on the effective date of this By-law which is less than the required yard.

5.8.1 Architectural Features

For any building to which setback regulations apply, window sills, chimneys, cornices, eaves, and similar architectural features may project a maximum of 1.0 m into any required yard, but the said features shall not project to within less than .45 m of any lot line.

5.8.2 Fire Escapes

No person shall erect any open fire escape in any front yard, but one or more open fire escapes may be erected in any required side or rear yard a distance of not more than 1.5 m.

5.8.3 Porches and Decks

- (i) For single-detached, semi-detached, duplex, converted, row and multiple dwellings, a porch or deck may project into a required front yard and required rear yard a maximum of 3.0 m and into a required side yard a maximum of 1.0 m, but where projecting into a required yard, no porch or deck shall project to within less than 1.5 m of a front lot line or a rear lot line, 1.5 m of an exterior side lot line, or .9 m of an interior side lot line, but a deck of .75 m or less above finished grade may project into any required rear yard provided the said deck is set back minimum 0.9 m from the rear lot line and .9 m from a side lot line where there is a required side yard, and a deck 0.75 m or less above-grade shall not be subject to lot coverage regulations.
- (ii) For single-detached, semi-detached, duplex, row and converted dwellings, a porch or deck that projects into a required yard may project to within 0.9 m of an interior lot where there is no attached garage or carport, provided such a structure is setback a minimum of 14.0 m from the front lot line or a minimum of 6.5 m from the front wall of the main building on the lot, whichever is greater.

5.8.4 Railway Lines

Railway lines and accessory safety, signaling and operating structures shall be permitted in any yard of a lot in a M1, M2, or MU Zone.

5.8.5 Barrier Free Access

Any form of barrier free access in accordance with the regulations contained in the Accessibility for Ontarians with Disabilities Act, may project into any required yard provided such access does not cross over any lot line.

5.9 ACCESSORY BUILDINGS AND STRUCTURES

5.9.1 Non-Residential Uses

- (a) Unless otherwise provided for in this By-law, no person shall erect any accessory building or structure to a non-residential use in any required yard of any non-residential use; however, where building setback regulations apply, any parking structure whether attached or detached to the main building located totally below grade (with the exception of entrances thereto) may be erected to within 0.5 m of any lot line, and such structure shall not be subject to lot coverage regulations. Any garbage enclosure may be erected to within 0.5 m of any lot line, and such structure shall not be subject to lot coverage regulations.
- (b) No person shall erect any accessory building or structure to a non-residential use that exceeds 5.0 m in height, except in Commercial, Industrial and Institutional Zones where the maximum height of such accessory buildings and structures shall be the same as the maximum building height in the applicable zone, except as may otherwise be provided for in this By-law. Notwithstanding, an accessory building or structure in Agricultural and Rural Zones shall be the same as the maximum building height in the applicable zone.

- (c) Notwithstanding the yard and setback provisions of this By-law to the contrary, in an Industrial Zone, a gatehouse shall be permitted in a front or side yard.
- (d) Accessory uses within an Industrial Mall are limited to 25% of the gross floor area.

5.9.2 Residential Use

No person shall erect any accessory building or structure to a residential use except in accordance with the following provisions:

- (a) General
 - (i) Unless otherwise provided for in this By-law, accessory buildings and structures to residential uses shall have a maximum height of 5.0 m and all accessory buildings or structure to residential uses on a lot shall not cumulatively exceed 12% lot coverage.
 - (ii) Swimming pools and accessory buildings and structures thereto, and satellite dishes shall be considered accessory structures for purposes of this By-law and shall be subject to all setback, height and other requirements as would be applicable to accessory buildings and structures, except however that lot coverage regulations shall not apply to outdoor swimming pools and satellite dishes.
 - (iii) Any attached or detached parking structure accessory to a multiple dwelling which is located totally below grade (with the exception of entrances thereto) may be erected to within 0.5 m of any lot line and such structure shall not be subject to lot coverage regulations.

- (b) Front Yard

No accessory building or structure shall be erected in any front yard for any residential use, except however for apartment dwellings over 8 residential units where accessory buildings and structures may be erected in that portion of a front yard which lies outside of a required front yard and provided such accessory building or structure is setback from an interior side lot line a minimum of 0.9 metres and from an exterior side lot line a minimum of 3.0 metres.

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- (c) Rear Yard

Accessory buildings or structures to residential uses may be erected in any rear yard of a residential use provided such accessory building or structure is setback from the rear lot line and an interior side lot line a minimum of 0.9 metres and from an exterior side lot line a minimum of 3.0 metres.

- (d) Side Yard

- (i) For apartment dwellings, where any side yard width is greater than the required side yard width, an accessory building or structure may be erected in that part of the side yard which lies outside of the required side yard.

- (ii) (a) For single-detached, semi-detached, duplex, townhouse and converted dwellings, a garage or carport may be erected in any side yard except however a required exterior side yard provided such accessory building is set back a minimum of 0.9m from the side lot line and the minimum front yard depth as is required for the main use on the same lot by this By-law is provided.
- (b) For single-detached, semi-detached, duplex, townhouse and converted dwellings, where there is no garage or carport constructed on a lot, accessory buildings and structures other than a garage or carport may be erected in any side yard which does not constitute a required side yard provided the minimum front yard depth as is required for the main use on the same lot by this By-law is provided , and accessory buildings and structures other than garages and carports may be erected in a required side yard except however a required exterior yard provided such accessory building or structure is set back a minimum of 6.5m from the front face of the main building, or 14.0m from the front lot line, whichever is the greater, and is set back a minimum of 0.9m from the side lot line.
- (c) For single-detached, semi-detached, duplex, converted and townhouse dwellings, where there is a garage or carport constructed on a lot, accessory buildings and structures may be erected in any side yard except however a required exterior side yard provided such accessory buildings or structures are set back minimum 0.9m from the side lot line and the minimum front yard depth as is required for the main use of the same lot by this By-law is provided.

5.9.3 Rural Zone

No person shall erect any accessory building or structure in the Rural (RUR) zone except in accordance with Section 5.8.1 Non-Residential Use with the exception of any accessory buildings and structures shall be setback a minimum of 3.0m from the side and rear lot lines and shall not be located in any front yard.

5.10 OUTDOOR PATIOS

No person shall establish an outdoor patio as defined in Section 4 of this By-law accessory to a dining establishment except in accordance with the following requirements:

- (a) Where the zone boundary between any residential zone and lands intended to contain an outdoor patio is within a public street, an outdoor patio shall be permitted to the rear of the main building a minimum of 50.0 metres from the said residential zone boundary subject to the following provisions:
 - (i) no live music shall be permitted on the outdoor patio between the hours of 11:00 pm and 9:00 am

- (ii) where there is a multiple dwelling, lodge care facility, home for the aged within a Commercial Zone the minimum setback from an outdoor patio shall be 50.0 metres minimum from the lot line containing the said use;
 - (iii) no outdoor patio shall be located above the first storey of the main building;
 - (iv) no outdoor patio shall exceed 25% maximum of the gross floor area of the associated main use;
 - (v) an outdoor patio permitted under this By-law, other than one subject of an agreement under Section 5.10(b)(ii), shall be bounded by a fence a minimum of 1.2 metres in height;
 - (vi) no outdoor patio is permitted accessory to a drinking establishment or place of entertainment or amusement.
- (b) Where the zone boundary between any residential zone and lands intended to contain an outdoor patio is to the rear of the main building, an outdoor patio shall be permitted in front of the main building a minimum of 50.0 metres from the said residential zone boundary subject to the following provisions:
- (i) The provisions of Section 5.10 shall apply to the location of an outdoor patio;
 - (ii) An agreement has been executed with the City permitting the use of any part of the municipal road allowance for an outdoor patio.

5.11 DWELLING UNITS BELOW GRADE

A dwelling unit, in its entirety, may be located in a basement, but no person shall locate more than 50% of the floor area of any dwelling unit in a cellar.

5.12 STREET WIDENING, FRONTAGE, SIGHT TRIANGLE AND SPECIAL YARD REQUIREMENTS

5.12.1 Street Widening

Where any lot is legally used, or where any lot and /or building or structure is proposed to be used for any use permitted in the applicable zone and would meet this By-law's requirements for such use, and where the City obtains or has obtained a road widening which places the lot or building or structure in conflict with the requirements of this By-law, such lot and / or building or structure shall be deemed to meet the provisions of, and be in conformity with this By-law, notwithstanding that certain By-law regulations may not be met.

5.12.2 Street Frontage

- (a) No person shall erect any building or structure or establish a use on any lot in any Zone for which a minimum lot frontage is required unless the lot abuts an improved street; this provision shall not apply to individual units in condominium developments.

- (b) Where this By-law does not require a minimum lot frontage within the applicable zone, no person shall use any lot, which does not have a minimum of 3.0 m frontage on an improved street.

5.12.3 Sight Triangle

On a corner lot in any zone, except however Core Commercial (C1) Zones, no person shall erect or permit any building or structure, parking area or parked vehicles, fence or hedge in excess of 0.6 m in height, sign or other obstruction which may have the effect of impeding visibility of a motorist, closer to the front and exterior side lot lines so that any portion of the said obstruction extends beyond a line connecting two points equidistant 5.0 m along each lot line from the point of intersection of the said lot lines, such triangular area to be called a sight triangle. Where the point of intersection of the said streets constitutes an arc, the point of intersection shall be determined in accordance with the definition of "lot corner". The provisions of this section shall also apply to land which abuts one or more unopened public streets.

5.12.4 Special Yard Requirements

Where any interior lot is proposed to be used for a Single Detached Dwelling or Semi-Detached Dwelling and such lot is located between two lots which have thereon dwellings which are located less than the minimum front yard depth as is required by this By-law for the applicable zone, such proposed dwelling unit may be located with a front yard depth the same as of greater than the dwelling on one of the abutting lots having the greater front yard depth, but in no case shall a dwelling be located closer than 3.0 m to a front lot line, and in no case shall this section be applied to require a front yard depth greater than that otherwise required by this By-law.

5.13 MUNICIPAL SERVICES REQUIRED

No person shall erect for human use or habitation a main building in any Zone unless such lot is served by a municipal water supply and sanitary sewage system or is specifically permitted by the City in Rural or Agricultural Zones. Private water supply and sanitary sewage systems, where permitted by the City in Rural or Agricultural Zones, shall be in accordance with the requirements of the Environmental Protection Act and any other Acts having jurisdiction.

5.14 ONE OR MORE PERMITTED USES

Unless otherwise provided in this By-law, where more than one use is permitted on a lot in a zone, the lot may be used and buildings and structures erected and used thereon for one or more of the uses permitted in the said zone, provided the requirements of this By-law are satisfied for each such use.

With the exception of apartment and townhouse dwellings as defined in this By-law, and where otherwise specified in this By-law, not more than one residential building shall be erected on any lot.

5.15 THROUGH LOTS

Whether a through lot is a corner lot or an interior lot, notwithstanding that one street line (except the exterior side lot line on a corner lot) is considered a rear lot line, the minimum front yard depth or minimum building setback from a front lot line applicable to the zone in which the lot is situated for the permitted use shall apply on each street or road allowance.

5.16 LOTS AFFECTED BY HAZARD ZONE

Where any lot is zoned in part in a Hazard Zone, no person shall erect any building or structure within the area which is zoned Hazard Zone, except as otherwise permitted in the Hazard Zone, but the lands zoned Hazard may be used in the calculation of lot area, lot frontage, required yards, setbacks, density, and lot coverage as is necessary for the development occurring on the portion of the lot not zoned Hazard.

5.17 USE SPECIFIC REGULATIONS

5.17.1 Automotive Service Stations

Where permitted by this By-law, an Automotive Service Station shall be subject to the provisions as set out in the following table.

Regulations		
a	Minimum Lot Frontage	30 m
b	Minimum Lot Area	1,200 m ²
c	Minimum Front Yard Setback	10.0 m
d	Minimum Rear Yard Setback	3.0 m except where a yard abuts a Residential Zone the minimum building setback from the common lot line shall be 5.0m
e	Minimum Interior Side Yard Setback	
f	Minimum Exterior Side Yard Setback	
g	Maximum Building Height	10.0 m
h	Minimum Setback for Gas Pump Islands	5.0 m from any lot line
i	Minimum Setback for Canopies	2.0 m from any lot line

5.17.2 Mobile Homes

Notwithstanding any provisions of this By-law to the contrary, a mobile home which has minimum dimensions of 6.5 m (length and width) with a minimum gross floor area of 100.0 m² and which is to be erected on a foundation with, a basement or cellar a minimum 2.0 m in height and a minimum 60.0 m² floor area, shall be considered a single detached dwelling in all zones where single detached dwellings are permitted.

5.17.3 Group Homes

Group Homes shall be permitted in Residential Zones, Core Commercial (C1) Zone, Mixed Use Commercial Zone (MC) and Institutional (I) Zone, provided the building in which the group home will operate is detached from other buildings on other lots, and provided no group home is located within 200 metres of any other group home within any Zone.

All site and building regulations applicable to a Group Home shall be the same as apply to a single detached dwelling in the Residential (R4) Zone, but any lot or building which may be used legally for a single detached dwelling may be used for a group home.

For the purposes of this By-law, a Group Home does not include a Student Residence, Correctional Group Home or a Crisis Residence.

5.17.4 Place of Worship

Where permitted by this By-law, a place of worship shall be subject to the provisions of the Institutional (I) Zone.

5.17.5 Public Park

Where permitted by this By-law, a public park shall be subject to the provisions of the Open Space (OS) Zone. For lands within the Hazard Zone (ZH), a public park shall only be used for conservation and non-intensive recreation uses such as nature viewing and non-motorized trail activities and shall not include any buildings or structures.

5.17.6 Kennel

Where permitted by this By-law, a kennel shall be subject to the provisions of the applicable zone in addition to the following additional provisions:

- a) Any outdoor run, pen or similar holding area for dogs, cats or other domesticated animals must be fully enclosed by fencing; and
- b) Shall be located a minimum of 200 meters from any lot line.

5.17.7 Body Piercing and Tattoo Parlours

Where permitted by this By-law, a body piercing establishment or tattoo parlour shall be subject to the provisions of the applicable zone in addition to the following additional setbacks:

- a) 100 metres minimum from any drinking establishment or adult entertainment facility
- b) 200 metres minimum from an institutional use including a school, daycare or place of worship

- c) 200 metres minimum from a residential zone
- d) 200 metres minimum from another body piercing establishment or tattoo parlour

5.17.8 Body Rub Parlour

Where permitted by this By-law, a body rub parlour shall be subject to the provisions of the applicable zone in addition to the following additional setbacks:

- a) 100 metres from any drinking establishment or adult entertainment facility
- b) 800 metres from an institutional use including a school, daycare or place of worship
- c) 500 metres from a residential zone
- d) 500 metres from another body rub parlour

5.17.9 Home Occupations

A home occupation shall be permitted as an accessory use to any residential use, in accordance with the following:

- a) The home occupation shall be conducted secondarily to the main use of the lot or building, or part thereof, which is residential, and shall not change the residential character of the dwelling unit;
- b) The home occupation shall be operated solely by the occupants of the dwelling unit. A single employee who does not permanently reside within the same dwelling unit containing the home occupation shall only be permitted for uses identified in subsection (l.1) below;
- c) The home occupation shall not create or become a nuisance in regard to noise, odours, vibrations, traffic generated or parking;
- d) The home occupation shall not create or become a fire, health or building hazard;
- e) There shall be no open storage or materials or goods in support of the home occupation; there shall be no external display or advertising or the home occupation except in accordance with the City of Owen Sound Sign Bylaw;
- f) There shall be no more than one vehicle, which is either commercially licensed or otherwise used in conjunction with the home occupation, permitted on the premises.
- g) In Residential Zones, the home occupation including its accessory buildings and structures, shall not occupy exclusively more than 25.0 m² of the gross floor area of the dwelling unit or, 25% of the gross floor area of the dwelling unit to a maximum of 40.0 m², whichever is the greater.
- h) A home occupation shall not occupy exclusively more than 50% of the gross floor area of any dwelling unit located in a commercial zone.

- i) There shall be no more than 4 cubic metres of storage of materials of a non toxic or non hazardous nature and such storage shall be wholly within the portion of the building containing the home occupation.
- j) Notwithstanding any statement in this By-law to the contrary, two home occupations otherwise permitted by this definition may be permitted within one dwelling unit provided the two home occupations cumulatively do not exceed the gross floor area requirements for home occupations as set out in this definition;
- k) An additional parking stall is provided for the home occupation in addition to those required by the By-law for other permitted uses on the property. Notwithstanding, if there is no parking requirement for the main use as determined Section 5.18 of this By-law then no additional parking is required.
- l) Uses that may be considered as a home occupation include:
 - 1. an office for an architect, stenographer, lawyer, medical practitioner, engineer, businessperson or other professional person or agent, service use, hawker, pedlar, door-to-door or other sales representative, skilled tradesworker such as a house builder, painter, electrician or plumber;
 - 2. the instruction of music, art or academic subjects provided facilities are limited to serve a maximum of three students at one time;
 - 3. a studio;
 - 4. a private home day care;
 - 5. a hair, barber, beauty, aesthetics, tailor, dressmaker, or shoemaker establishment containing no more than one chair and one operator;
 - 6. a home catering service which is limited to the preparation of meals in full or in part for consumption at a location other than the premises in which said food is prepared;
 - 7. grooming of dogs, cats or other household pets provided all pens and holding areas for pets are within completely enclosed buildings and there is no overnight accommodation of such pets; and
 - 8. any other use which conforms to the above criteria and which is approved by the Owen Sound Committee of Adjustment.

Notwithstanding any of the home occupation uses listed above, retail sales and **taxi dispatch office** shall be prohibited.

5.17.10 Boarding or Lodging Houses

Where permitted in this By-law, a Boarding or Lodging House shall be subject to the provisions of the Single Residential (R1) Zone.

Notwithstanding anything else in this By-law, only one Boarding or Lodging House shall be permitted on a lot. No building or part thereof shall be used for a Boarding or Lodging House on a lot that is situated within 250 metres of another lot on which a Boarding or Lodging House is located, such minimum

distance to be measured from the closest point of the lot lines associated with each lot.

5.17.11 Cannabis Production Facility

Where permitted in this By-law, a Cannabis Production Facility shall be subject to the provisions of the applicable zone. The following setbacks and regulations shall also apply:

- a) A Cannabis Production Facility shall not be permitted as an Accessory Industrial Use.
- b) All components of a Cannabis Production Facility, including loading shall be located in a wholly enclosed building. No open or outdoor display or storage shall be permitted.
- c) No retail sales may be permitted in conjunction with a Cannabis Production Facility.
- d) A Cannabis Production Facility shall be setback from a use, lot line or zone boundary for a sensitive land use in accordance with the following separation distances:
 - i. Where the Cannabis Production Facility is equipped with air treatment control,
 - it shall be setback from a sensitive land use lot line or zone boundary a minimum of 70 m;
 - it shall be setback from a dwelling, school, long term care facility, hospital, day nursery, crisis residence, group home, or group residence a minimum of 150 m.
 - ii. Where the Cannabis Production Facility is not equipped with air treatment control it shall be setback a minimum of 300 m from any lot line or zone boundary for a sensitive land use.
- e) Notwithstanding the setback requirements outlined in Sec. 5.17.11 (d), the following provisions shall apply:
 - i. Warehousing associated with a Cannabis Production Facility is not subject to the separation distances from sensitive land uses.
 - ii. The required separation distances shall not be deemed to apply to a dwelling unit where permitted in an Industrial Zone for a custodian or maintenance employee.

5.17.12 Food/Beverage Production Facility

Where permitted in this By-law, a Food/Beverage Production Facility shall be subject to the provisions of the applicable zone. The following setbacks and regulations shall also apply.

- a) A Food/Beverage Production Facility may be permitted as an Accessory Industrial Use.
- b) Where permitted in a C1, C2, MC, or MU zone, a Food/Beverage Production Facility shall have an accessory commercial use

component, including one or more of the following: drinking establishment, museum/gallery, restaurant, or retail store.

- i. The commercial use shall be sized a minimum of 16 m².
 - ii. The commercial use shall have frontage on a street in the C1 zone and shall address a street or primary parking area in all other zones.
- c) A Food/Beverage Production Facility shall be setback from a use, lot line or zone boundary for a sensitive land use in accordance with the following separation distances:
- i. Where permitted as an Accessory Industrial Use, a Food/Beverage Production Facility shall be setback from a sensitive land use lot line or zone boundary a minimum of 70 m.
 - ii. Where permitted in a C1, C2, MC, or MU zone, a Food/Beverage Production Facility shall be equipped with air treatment control and shall:
 - be setback from a sensitive land use lot line or zone boundary a minimum of 70 m.
 - iii. Where permitted in a M1 or M2 zone, a Food/Beverage Production Facility shall be equipped with air treatment control and shall:
 - be setback from a sensitive land use lot line or zone boundary a minimum of 70 m;
 - be setback from a dwelling, school, long term care facility, hospital, day nursery, crisis residence, group home, or group residence a minimum of 150 m
- d) Notwithstanding the setback requirements outlined in Sec. 5.17.12 (d), the following provisions shall apply:
- i. Warehousing associated with a Food/Beverage Production Facility is not subject to the separation distances from sensitive land uses.
 - ii. The required separation distances shall not be deemed to apply to a dwelling unit where permitted in an Industrial Zone for a custodian or maintenance employee.

5.18 GENERAL PARKING REGULATIONS

5.18.1 Provision of Parking Stalls

No person shall erect or enlarge any building or structure or establish or change a use unless parking stalls required by this By-law are provided, unless the requirement to provide such parking is reduced or eliminated through an agreement between the Corporation of the City of Owen Sound and the owner of any lot as provided for in the Planning Act.

5.18.2 Off-Street Parking Requirements for all Zones, excluding C1 Zone

Except as may otherwise be provided for, the minimum number of parking stalls for motor vehicles must be provided as set out in the following table:

Land Use Category	Use	Number of Vehicle Parking stalls Required
Residential Uses	Single detached dwelling, duplex dwelling, semi-detached dwelling, converted dwelling, and street fronting townhouse dwelling	1 space per dwelling unit
	Apartment dwelling and cluster townhouse dwelling	1.25 spaces per dwelling unit
	Residential dwelling units in a portion of non-residential building	1 space per dwelling unit
	Bed and breakfast house and boarding or lodging house	1 space plus 1 space per suite
Commercial Uses	Commercial school, financial institution, Laundromat, personal service use, retail store, service shop, studio	1 space per 25 m ² of gross floor area or 4 spaces, whichever total is greater
	Restaurant, Drive-thru Restaurant	1 space per 9 m ² of gross floor area, plus 1 space for each 7.5 m ² of patio or deck area used for dining or drinking
	Funeral home	1 space for each 15 m ² of gross floor area
	Shopping Centre (Neighbourhood or otherwise)	1 space for each 15.0 m ² of gross floor area up to 300.0 m ² , and 1 space for each 20.0 m ² of gross floor area thereafter; or 10 spaces, whichever is the greater
	Hotel	1.2 spaces per guest room
	Marina	0.5 space for each water craft slip

Land Use Category	Use	Number of Vehicle Parking stalls Required
	Automotive Rental Establishment	4 spaces plus 1 space per 28.0 m ² gross floor area
	Automotive Service Station, Vehicle Body/Repair Shop	3 spaces for every service bay or repair station
	Automotive Washing Establishment	2 spaces
	Wholesale establishment	1 space per 90m ² of gross floor area
	Other commercial uses	1 space per 28.0 m ² gross floor area
Office Uses	Business or professional office and government administrative offices	1 space per 28 m ² of gross floor area
	Animal kennel, medical centre, veterinary clinic	Minimum of 4 spaces or 6.0 spaces per 100 m ² gross floor area, whichever is greater
Industrial Uses	Truck transport terminal	1 space per 100 m ² gross floor area
	Warehouse	1 space per 185 m ² of gross floor area
	All other industrial uses	5 plus 1 space per 90 m ² of gross floor area
Institutional Uses	Place of worship	1 for every 5 seats capacity or 1 for each 10 m ² of gross floor area used for a hall or auditorium, whichever is greater
	Hospital	1 space per 3 beds plus 1 space for every 4 employees
	Elementary School	5 spaces plus 1 space per classroom
	Secondary School	1 space for each classroom; or 1 space per 10 m ² of floor area in the gymnasium or auditorium, whichever is greater.
	Group home, group residence, crisis residence	1 space per 3 beds
	Long term care facility	1 space per 4 suites

Land Use Category	Use	Number of Vehicle Parking stalls Required
Leisure and Recreation Type Uses	Museum, library, recreational or athletic facility	1 space per 20 m ² of gross floor area. Playing areas for squash, tennis, handball and badminton courts are to be excluded for the purposes of calculating parking
	Community lifestyle facility	1 space for every 4 seats or 1 space per 20 m ² of gross floor area
	Bowling alley, lawn bowling club, tennis club, golf course, curling club, racquet club	3 spaces per alley, bowling green, tennis or racquet court, putting green, or sheet of ice, plus 1 space for each 15.0 m ² of gross floor area devoted to other uses.
Other uses	All other uses permitted by this By-Law other than those listed in this table	1 per 40 m ² of gross floor area

5.18.3 Off-Street Parking Requirements for C1 Zone

Except as may otherwise be provided for, the minimum number of parking stalls in the C1 Zone for motor vehicles must be provided as set out in the following table:

Land Use Category	Use	Number of Vehicle Parking stalls Required
Commercial Uses	Retail, rental and repair store, personal service use, financial institution, office, clinic, community lifestyle facility, commercial school, funeral home, veterinarian’s clinic, studio, drinking establishment, restaurant	1 space per 40 m ² of gross floor area
Institutional Uses	Community lifestyle facility, athletic or recreational establishment, theatre, church, art gallery, library, museum.	No parking stalls required
Residential/ Mixed Uses	Dwelling units in combination with non-residential uses, Multiple Dwellings	1 space for each dwelling unit.
Other Uses	All other uses within C-1 Zones shall be as detailed in Section 5.18.2 of this By-law.	

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5.18.4 Parking Exemption for C1 Zone

Where, in any C1 Zone, a building exists on the date of passing of this By-law, or where a building or use is established in accordance with this By-law, and where a proposal is made to change the use of any such building to a different use without increasing the floor area of the building:

- a. The new use shall be permitted without additional parking being provided notwithstanding that additional parking spaces may be required pursuant to Section 5 of this By-law;
- b. Notwithstanding the foregoing, parking shall be required in accordance with this By-law where the change in use is from a residential use to any other permitted use;
- c. Where an addition is proposed to any building, parking shall be required only for the addition, and any legal deficiency in parking for the existing building shall not be required to be made up, unless the proposed addition results in the loss of existing parking spaces.
- d. No additional parking shall be required where the proposed addition does not exceed 10% of the gross floor area of the existing building.

5.18.5 Use of Parking Areas and Spaces

No parking area or space required under this By-law shall be used for any other purpose than the parking of licensed vehicles used in conjunction with the permitted uses on the lot.

5.18.6 Calculation of Off-Street Parking stalls

Where the calculation of off-street parking requirements results in a fraction, the number of parking stalls to be provided will be rounded to the next highest whole number.

5.18.7 Parking for More Than One Use in a Building

When a lot, building or structure accommodates more than one use as set out in this By-law, the parking stall requirement shall be the sum of the requirements for the separate uses, unless otherwise provided for in this By-law.

5.18.8 Commercial Motor Vehicles, Tractor Trailers and Buses in Residential Zones

No person shall use any lot, building or structure in a Residential Zone for the parking or storage of any commercial motor vehicles unless he is the owner or occupant of such lot, building or structure, and provided that said vehicles shall not exceed 2,721.6 kilograms gross vehicle weight and provided that not more than one commercial motor vehicle is stored in accordance with this Section.

No person shall use any lot, building or structure in a Residential Zone for the parking or storage of any tractor trailer or part thereof. This provision shall not include commercial motor vehicles, and tractor trailers which attend a residential premise for the purposes of delivery and service.

5.18.9 Parking and Storage of Unlicensed and Inoperable Motor Vehicles

Unless specifically provided for by this By-law, no person shall provide outdoor storage for any motor vehicle which is unlicensed or inoperable.

5.18.10 Size and Accessibility of Parking Stalls

Motor vehicle parking stalls and parking aisles shall comply with the standards set out in the following table.

Maximum Angle of Parking stall to Maneuvering Aisle	Parking stall Width		Parking stall Length	
	Standard	Barrier Free	Standard	Barrier Free
0 degrees	2.50 m	3.50 m	6.50 m	6.50 m
30 degrees up to and including 90 degrees	2.65 m	3.50 m	6.00 m	6.00 m

5.18.11 Location of Required Off-Street Parking stalls

Unless otherwise provided in this By-law, required off-street parking stalls shall be located on the same lot as the principle or main building or on a lot no more than 100 m from the lot.

5.18.12 Parking Surfaces and Drainage

All off-street parking stalls and areas shall be constructed of a non-migrating hard surface material and treated to prevent erosion and the raising of dust and loose particles. Surface cover shall consist of asphalt, paving brick, concrete or similar hard-surfaced materials. All off-street parking stalls and areas shall be graded and drained so as to prevent the pooling of surface water or the flow of surface water onto adjacent lots.

5.18.13 Tandem Parking

Where parking is provided at the dwelling unit in an individual driveway, the required parking for that dwelling may be provided by a tandem parking stall.

5.18.14 Parking Facilities

In zones where a parking facility is a permitted use, and the parking is to be provided within a structure, such a structure shall be subject to all requirements of the zone except for parking provisions.

5.18.15 Underground Parking Provisions

All underground parking structures shall be permitted to extend to 0.5 metres from the property line in the side and rear yards only, in the case of the front yard and side yard setback, the regulations of the zone shall apply.

5.18.16 Parking Area Location On-Lot

Notwithstanding the required yard and setback provisions of this By-law to the contrary, uncovered surface parking areas shall be permitted in the required yards or in the area between the street line and the required setback provided that no part of any parking area, other than a driveway, is located closer than 1.5 m to any street line, unless otherwise specified below:

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- a) A parking space for individual residential dwelling units with individual private driveways may be located in the front yard provided that not more than 50% of the front yard area is used for driveways and parking areas. Notwithstanding the above a private drive shall be no less than 3.0 m wide and no more than 8.5 m wide.
- b) For Extractive Industrial/Disposal Industrial Uses, parking shall be permitted in the rear yard and interior side yard, and where such uses abut a Residential, Commercial, Institutional or Agricultural use, the parking area shall be set back 9.0 m from the abutting lot line.
- c) For the conversion of a building, as legally existing on the effective date of this By-law, to permit a residential use containing three (3) or more dwelling units a parking area may be permitted within a front, rear or side yard.

5.19 BARRIER FREE PARKING REGULATIONS

5.19.1 Barrier Free Parking Requirements

No person shall establish, alter or expand a parking area designed to accommodate more than 5 required parking stalls unless the number of required barrier free parking stalls as set out in the following table are provided.

Barrier free parking stalls shall be located near and accessible to the point of entrance to the building and be clearly marked as a barrier free parking stall.

Where the required number of parking stalls equals 100 or more the City may require additional accessible spots for expectant mothers/mothers with small children.

Total Required Parking Stalls	Minimum Number of Barrier Free Parking Stalls
5 to 10	1
11 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of the total required
Over 1000	20 + 1% over 1000 of the total required

5.20 BICYCLE PARKING REGULATIONS

5.20.1 Bicycle Space Requirements

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The minimum number of parking spaces for bicycles, in addition to the required vehicle parking, must be provided as set out in the following table:

Use	Number of Bicycle Spaces Required
Cluster Townhouse or Apartment Dwellings	10% of required vehicle parking
Schools	1 space per 20 m ² classroom, plus 1 space per 800 m ² of office area
Offices	4% of required vehicle parking, or 4 spaces, whichever is greater
Commercial Uses (excluding uses in the C1 Zone, unless otherwise noted), including Restaurants (excluding take-out only)	5% of required vehicle parking, or 4 spaces, whichever is greater
Automotive Rental Establishment, Automotive Service Station, Automotive Washing Establishment, Transportation Depot, Vehicle Body/Repair Shop, Vehicle Sales Establishments	1 space
Cinema, Community Lifestyle Facility or Community Centre	10% of required vehicle parking, or 4 spaces, whichever is greater
Hotel	1 space per 20 guest rooms
Industrial Use	4% of required vehicle parking

5.20.2 Bicycle Parking Space Design Standards

Bicycle parking shall be provided in an area having a minimum of 1.8 m in length. The minimum number of bicycle parking spaces shall be accommodated by a rack, which will determine the width of the bicycle parking area.

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5.20.3 Motorcycle Parking Space Design Standards

- a) The minimum dimensions for each space intended for motorcycles or similar vehicles must be 1.0 m in width and 2.1m in length;
- b) Motorcycle parking can be located in areas which may be unsuitable for vehicle parking due to size or shape and not intended for pedestrian traffic, however the parking must be clearly delineated by markings and barriers.

5.21 QUEUING REGULATIONS

5.21.1 Queue Space Requirements

Where any of the uses permitted by this by-law offer drive-through service, off-street vehicle queue spaces leading to and from the drive-through service must be provided in accordance with the following table:

Land Use	Required Number of Queuing Spaces
Automated Bank Machine	3.0 before each Automated Bank Machine
Automotive Service Station/Repair	3.0 before each service bay

Garage	1.0 at service bay exit if a through-bay
Automotive Washing Establishment	3.0 before each wash bay 1.0 after each wash bay
Restaurant	12.0 total including 11 before the service/pick up window and 1 at the service/pick up window
Convenience Retail or Service Establishment	2.0 before service window

5.21.2 Queue Space Design Standards

All required queue spaces must be provided in accordance with the following design standards:

- a) The minimum dimensions for each queue space must be 2.75 m in width and 5.75 m in length;
- b) Queue spaces must be arranged in a single waiting line in advance and behind the drive through service window.
- c) Queue spaces may be arranged in a double waiting line in advance of the menu board/order station.
- d) A minimum inside turning radius for queue spaces forming a waiting line is 7.0 m.
- e) Queue spaces forming a waiting line must be unobstructed by parking stalls or loading spaces and must be clearly delineated by markings and barriers; and
- f) Queuing spaces forming a waiting line or storage space from the service offered cannot form part of a parking aisle providing access to parking stall.

5.22 LOADING SPACE REGULATIONS

5.22.1 Loading Space Requirements

No person shall erect or enlarge a building or establish or change a use unless permanently maintained off-street loading spaces accessible from an improved street or lane are provided in accordance with the following requirements:

Use	Required Number of Loading Spaces
Multiple Dwelling over 25 units	1 space
All uses involving shipping and/or receiving of goods (See Section 5.22.4)	0 spaces for 0 to 300 m ² gross floor area
	1 space for over 300 m ² to 3000 m ² gross floor area
	2 spaces for over 3000 m ² gross floor area
Uses in the Commercial C1 (C-1) Zone	N/A

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5.22.2 Loading Space Access

Each loading space shall be provided with one or more unobstructed driveways of not less than 3.5 m in width and 10 metres in depth. Such driveway shall be contained within the lot on which the spaces are located and are accessible from a street or lane. No part of such driveway shall be used for the parking or temporary storage of vehicles.

5.22.3 Loading Space Surface

The driveways, loading and unloading spaces shall be maintained with a stable surface which is treated so as to prevent the raising of dust or loose particles and with provisions for drainage facilities.

5.23 LIGHTING & LANDSCAPING OF PARKING AND LOADING AREAS

- a) Where lighting facilities are provided in conjunction with any off-street parking or loading area, no person shall arrange such lighting such that excessive light and glare is deflected onto adjoining properties.
- b) Where a parking area containing 4 or more parking stalls or a loading space(s) abuts a residential use or undeveloped land in a Residential Zone a minimum of 1.5 metres of land abutting the lot line, shall be used for no other purpose than a planting strip in accordance with the provisions of this subsection.
- c) Where a parking area consisting of 4 or more parking stalls or a loading space(s) abuts a portion of a street, a minimum width of 1.5 metres of land adjacent to the street shall be used for no other purpose than a planting strip in accordance with the provisions of this subsection.
- d) In a C1 Zone, where a parking area consisting of 4 or more parking stalls in any yard which abuts a lot in a Residential Zone, no parking shall be permitted within 7.5 metres of the Residential Zone, unless a continuous privacy fence or solid vegetative screen having a minimum height of 1.5 metres is provided and maintained along the common lot line.
- e) A planting strip required for b) shall be used for no other purpose than for a row of trees, a continuous hedgerow of evergreens or shrubs, a berm, a wall, or a privacy fence, not less than 1.5 m high, immediately adjacent to the lot line or portion thereof along which such planting strip is required hereunder, arranged in such a way as to form a dense or opaque screen; with the remainder of the strip used for shrubs, flower beds or grass, ground cover or a combination thereof.
- f) A planting strip required for c) shall be used for no other purpose than for a planting strip arranged in such a way as to form a landscape strip with a row of trees shrubs, flower beds or grass, ground cover or a combination thereof. Notwithstanding, a berm, a wall, or a privacy fence may be permitted where it is required for noise attenuation purposes.

5.24 DESIGNATED HERITAGE BUILDINGS

Alternative building design or building materials for properties designated under the Ontario Heritage Act that were approved through the issuance of a Heritage Permit shall be deemed to comply with the provisions of this By-law.

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