

SECTION 5 - GENERAL PROVISIONS

5.1 INTERPRETATION

5.1.1 General

a) Minimum Requirements

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

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

b) Meaning of Use

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

c) Meaning of Shall

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

d) Meaning of Building or Structure

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

e) Number and Gender

In this by-law, words importing the singular number or the masculine gender only shall include more persons, parties or things of the same kind than one (1), and females as well as males, and the converse.

5.1.2 Special Use Regulations for Defined Areas

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

- a) if the special use regulations are different from the corresponding regulations of this by-law, including the general regulations applicable to the zone within which the defined area is located, the special regulations shall supersede and prevail over such corresponding regulations of this by-law;
- b) if the special use regulations establish one (1) or more specifically permitted uses for the defined area, such permitted use or uses shall be the only purpose or purposes for which the defined area may be used; and
- c) if the special use regulations specifically permit one (1) or more uses in addition to those otherwise permitted in the zone within which the defined area is located, any and all of the other special use regulations applicable to the defined areas shall apply only to the additional permitted use or uses and not to uses otherwise permitted in the zone.

5.2 APPLICATION OF GENERAL PROVISIONS

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

5.3 STREET FRONTAGE REQUIRED

No person shall erect any building or structure unless the lot upon which such building or structure is to be erected has lot frontage upon a street which has been assumed and opened by the municipality, the county, the province or some other road authority, and is maintained by such authority in such a manner so as to permit its use by vehicular traffic, provided that a building or structure may be erected upon a lot within a registered plan of subdivision in accordance with the provisions of a Subdivision Agreement entered into by the municipality in respect of such plan of subdivision notwithstanding that the streets within such plan of subdivision have not been assumed and are not being maintained by the municipality. The same shall apply to development of lots created through the consent process where a development agreement has been executed.

Notwithstanding the previous paragraph, for the purposes of this subsection, private roads that existed on the date of adoption of this by-law that are in or abut any Residential zone shall be considered as streets despite the fact that such roads have not been assumed by the corporation. This provision shall only have effect for the purpose of applying certain requirements and regulations of this by-law and not to the consideration and granting of consents. The provision shall also not imply any obligation on the corporation to assume and/or develop any private road into a public street or to maintain it for private or public purposes.

5.4 YARD AND OPEN SPACE PROVISIONS FOR ALL ZONES

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

5.5 TEMPORARY CONSTRUCTION USES

The temporary use of buildings and structures incidental and necessary for construction work (and such work is proceeding expeditiously) will be permitted in all zones and defined areas, but only for so long as the same are necessary for construction work. Any temporary construction

use must be removed within two (2) months of occupancy of the work under construction, or within two (2) months after construction work has ceased.

5.6 NON-COMPLIANCE WITH MINIMUM LOT OR YARD REQUIREMENTS

Where an existing building or structure is located on a lot having less than the minimum frontage or area required by this by-law, or having less than the minimum setback, front yard, side yard, rear yard, or floor area required by this by-law, the said building or structure, may be enlarged, repaired or renovated provided that the enlargement, repair or renovation of the existing buildings or structures, or any part thereof, does not further increase any existing non-compliance and complies with the other setback and yard requirements of the applicable zone. For example, where a five (5) foot side yard exists and a ten (10) foot side yard is required by the by-law, the existing building can be enlarged maintaining a five (5) foot side yard but must satisfy the rear, front and opposite side yard requirements. Notwithstanding the preceding, such enlargement, repair or renovation shall not be allowed if the same results in the continuation of an existing or the establishment of a new encroachment onto abutting property.

5.7 NON-CONFORMING USES

5.7.1 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 date of passing of this by-law, providing such use has been continuous since that date.

5.7.2 Building Permit Issued

The provisions of this by-law shall not apply to prevent the erection or use of any building or structure for a purpose prohibited by this by-law of any building or structure the plans for which have been submitted no more than six (6) months prior to the date of the passing of the by-law, and have been approved for zoning requirements by the Chief Building Official, so long as the

building or structure when erected is completed in conformity with such plans and is used and continues to be used for the purpose for which it was erected and provided the erection of such building or structure commenced within one (1) years after the date of the passing of the by-law and such building or structure is completed in conformity with such plans expeditiously after the erection thereof is commenced.

5.7.3 Permitted Exterior Extension

A building, which at the date of passing of this by-law was used for a purpose not permissible within the zone in which it is located, shall not be enlarged, extended, reconstructed or otherwise structurally altered, unless such building is hereafter to be used for a purpose permitted within such zone and complies with all requirements of this by-law for such zone.

5.7.4 Permitted Interior Alteration

The interior of any building lawfully used on the date of passing of this by-law for a use that is not permitted within the zone that such building is located may be reconstructed or structurally altered in order to render the same more convenient or commodious for the same purpose for which, at the passing of this by-law, such building was used.

5.7.5 Restoration to a Safe Condition

Nothing in this by-law shall prevent the strengthening or restoration to a safe condition of any building or structure or part thereof, lawfully used on the date of passing of this by-law, provided that the strengthening or restoration does not increase the building height, size or volume or change the use of such building or structure or encroach in any required yard.

5.8 EXISTING VACANT LOTS IN REGISTERED PLANS

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

- a) such lot could have been legally conveyed on the date of passing of this by-law without consent under Section 50 of the Planning Act, R.S.O. 1990, as amended from time to time;
- b) such lot is serviced by municipal piped water and municipal sanitary sewage disposal facilities or meets the requirements of the Ministry of Environment and Energy or its designated agent;
- c) such lot fronts on a street.

5.9 PERMITTED ENCROACHMENTS IN REQUIRED YARDS

Every part of any yard required by this by-law shall be open and unobstructed by any structure, other than a fence or hedge, provided however that those structures listed in the following table shall be permitted to project into the required yards indicated for the distances specified:

	Structure	Required Yard in Which Projection is Permitted	Amount of Encroachment Allowed
a)	sills, belt courses, cornices, eaves, gutters, chimneys, or pilasters	Any yard	three (3) feet
b)	Fire escapes and exterior staircases	Rear yard only	ten (10) feet
c)	Window bay and awnings	Front, rear and side yards	three (3) feet
d)	Balconies/patio	Front and rear yard only for single unit and two unit dwellings; any yard for multi unit dwellings	eight (8) feet
e)	Roofed unenclosed porches	Front and rear yards Side yards	eight (8) feet five (5) feet
f)	Furnace and air conditioning units	Rear and exterior side yards	five (5) feet
g)	Television towers but not satellite dishes	Rear and side yards	three (3) feet
h)	Cantilevers	Front and rear yards	two (2) feet
i)	Steps	Front, rear and side yards	eight (8) feet

5.10 USES PERMITTED IN ALL ZONES

Nothing in this by-law shall prevent land to be used as a street or pathway or prevent the installation of a watermain, sanitary sewer main, storm sewer main, gas main, pipe line or overhead or underground hydro, telephone, television, cable or other supply or communication line. Model homes and sales offices used in conjunction with development are also permitted in accordance with the corresponding site plan agreements for those developments.

5.11 PERMITTED PUBLIC USES

The provisions of this by-law shall not apply to the use of any land or to the erection or use of any building or structure for the purpose of public service by the Corporation of the Village of St. Clair Beach, or the County of Essex, or the Province of Ontario or by any local Board thereof as defined by the Municipal Act, as amended from time to time, or by Ontario Hydro provided that:

- a) any building erected or lot used in a residential zone under the authority of this paragraph shall be designed and maintained in general harmony with residential buildings and uses of the type permitted in the zone;
- b) any parking and loading regulations for these uses are complied with.

5.12 MOBILE HOMES

Mobile homes shall be prohibited within the municipality.

5.13 TRUCK, BUS AND COACH BODIES OR TRAILERS OR TENTS USED FOR HUMAN HABITATION OR STORAGE

- a) No truck, bus, coach or streetcar body, motor home, recreational vehicle, trailer or tent shall be used for human habitation within the municipality whether or not the same is mounted on wheels.

- b) No trailer, as defined in this by-law, shall be used for advertisement or the storage of goods and/or material within any zone unless specifically permitted otherwise by this by-law.

5.14 PROHIBITED USES

- a) It shall be prohibited to use any land or to erect and use any building or other structure in any zone or defined area for the purpose of home occupations, salvage or scrap yards, wrecking yards, automobile salvage yards, a waste disposal site or processing facility, the collection of junk, any refuse, scrap iron, or other scrap metals unless such uses are specifically listed as permitted uses within a particular zone or defined area.
- b) The outdoor keeping of derelict vehicles, defined as any vehicle that does not have a current licence, is prohibited, unless specifically listed as a permitted use within a particular zone or defined area.
- c) Uses not listed as permitted uses in a zone or defined area in this by-law shall be prohibited in such zone or defined area. This prohibition includes the temporary storage of material in the road allowance particularly when development is occurring on abutting property.

5.15 SIGHT VISIBILITY TRIANGLES

Notwithstanding any other provisions of this by-law, no building or structure, including a fence or sign, shall be erected within the triangular space included between the street lines for a distance of twenty (20) feet from the point of intersection and no shrubs or foliage shall be planted or maintained which obstruct the view of a driver of a vehicle approaching the intersection above a height of two (2) feet above the centreline grade of the intersecting streets.

5.16 LANDSCAPING, SCREENING AND BUFFERING

All landscaping, screening and buffering requirements shall be established through the use of Site Plan Control in accordance with Section 41 of the Planning Act, R.S.O. 1990 or other development or subdivision agreements.

5.17 HEIGHT

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

5.18 PARKING OF COMMERCIAL VEHICLES OR INDUSTRIAL EQUIPMENT IN RESIDENTIAL ZONES

The parking of commercial vehicles and industrial equipment is prohibited in residential zones except that the owner or occupant of any lot, building or structure in any residential zone may park not more than one (1) commercial vehicle on the premises, provided such commercial vehicle is parked within an enclosed private garage.

5.19 ACCESSORY USES

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

5.19.1 Private garages, other accessory buildings, structures or uses but not parking or outside storage areas, and accessory structures permitted in and regulated by subsection 5.19.2:

- a) shall not be used for human habitation, except where a dwelling unit is a permitted accessory use;
- b) i) for residential zones: shall not be permitted in the front yard or side yard abutting a street in the case of a corner lot;

- ii) for all other zones: shall not be built closer to the front lot line than the minimum distance required by this by-law for the main building on the lot;
- c) shall not be closer than 2.0 feet to any lot line if less than or equal to 107.64 square feet in area and 8.2 feet in height or shall not be closer than 4.0 feet to any lot line if greater than 107.64 square feet in area or 8.2 feet in height except:
 - i) that common semi-detached private garages or carports may be centred on a mutual side lot line;
 - ii) that where a lot line abuts a public alley an accessory building or structure may be located not less than 1.64 feet from said alley;
- d)
 - i) for residential zones: shall not exceed 10 percent of total lot area or 969 square feet in area, whichever is the lesser, and no individual accessory building or structure shall exceed 753 square feet in area;
 - ii) for all other zones: shall not exceed 10 percent of total lot area;
- e)
 - i) for residential zones: shall not exceed 15 feet in height;
 - ii) for all other zones: shall not exceed 35 feet in height;
 - iii) for permitted accessory and detached dwelling units: shall not exceed 2.5 storeys in height;
- f) shall not be considered as an accessory building if attached to the main building in any way;
- g) shall not be located within 4.92 feet of the main building on said lot with the exception of decks which shall be permitted to be attached to the main building;
- h) shall not be considered an accessory building if located completely underground;
- i) the following encroachment provisions shall apply to eaves and eavestroughs on accessory buildings:
 - i) for accessory buildings greater than 107.64 square feet in area, eaves shall be allowed to encroach 2.0 feet and eavestroughs an additional 0.5 feet into the required setback;
 - ii) for accessory buildings less than or equal to 107.64 square feet in area, eaves shall be allowed to encroach 1.0 feet and eavestroughs an additional 0.5 feet into the required setback.;
- j) specific provisions for accessory uses, buildings and structures in the Residential R1 zone are contained in the specific use provisions (subsection 6.2.1) of this by-law.

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

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

5.20 BALCONIES, DECKS AND PATIOS

Patios as defined herein, are not governed by the provisions of this by-law and shall not be included in the calculation of lot coverage. Structures, such as gazebos, on patios however, will be included in the lot coverage calculation. Decks and balconies as defined herein:

- a) shall not be built closer to the front lot line than the minimum distance required by this by-law for the main building on the lot;
- b) shall not be located in the required exterior side yard in the case of a corner lot;
- c) shall not be built closer than the lesser of ten (10) feet or fifteen (15) percent of the average lot width to any side lot line;
- d) shall not be built closer than ten (10) feet to any rear lot line;
- e) shall be included in the calculation of lot coverage.

5.21 SERVICING REQUIREMENTS FOR ALL DEVELOPMENT

No person shall use any lot or erect, alter or use any building or structure in any zone or defined area within the Village of St. Clair Beach unless such land, building or structure is serviced with municipal water and municipal sanitary sewers or some other sewage and water system satisfactory to the municipality and the Ministry of Environment and Energy or its designated agent.

5.22 PARKING REQUIREMENTS

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

	Type of Use or Building	Minimum Parking Required
a)	single unit dwelling, two (2) unit dwelling, multi unit dwelling	two (2) parking spaces per dwelling unit
b)	auditoriums, eating establishments, churches, theatres, arenas, community centres, private clubs, golf course dining rooms, public halls, and other places of assembly	one (1) parking space for every five (5) people of occupancy load capacity
c)	Elementary School	one point five (1.5) parking spaces for each classroom or teaching area
d)	Secondary School	two point five (2.5) parking spaces for each classroom or teaching area, plus one (1) parking space for every fifteen (15) people of occupancy load capacity for the cafeteria, gymnasium, auditorium or other similar space
e)	libraries	ten (10) parking spaces
f)	government buildings	ten (10) parking spaces

g)	retail stores	one (1) parking space per two hundred (200) square feet or fraction thereof of building area
h)	offices, general and professional	one (1) parking space per two hundred (200) square feet or fraction thereof of building area
i)	marinas	one (1) parking space for every three (3) slips for the months of May to October inclusive, and one (1) parking space for every six boats stored on the lot for the months of November to April inclusive
j)	commercial plazas and all other uses not specifically referred to above	one (1) parking space for every two hundred (200) square feet of building area

5.22a BARRIER FREE PARKING

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

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

5.23 STANDARDS FOR PARKING AREAS

Where in this by-law parking areas are required or permitted the following standards shall apply:

- a) when a building or lot accommodates more than one (1) use or purpose, the required parking spaces shall be the sum of the required parking spaces for the separate uses or purposes. Parking facilities for one (1) use shall not be considered as providing required parking for any other use;
- b) if calculation of the required parking spaces results in a fraction, the required parking spaces shall be the next highest whole number;
- c) the lights used for illumination of parking areas shall be so arranged as to divert the light away from adjacent lots and streets;
- d) all other requirements shall be in accordance with the corresponding site plan agreement.

5.24 LOADING SPACES

The provision of loading spaces and their design and location shall be in accordance with the corresponding site plan agreement.

5.25 SIGNS AND FENCES

All signs and fences shall be in accordance with the municipality's sign and fence by-laws passed under the authority of the Municipal Act.

5.26 SATELLITE DISHES

No satellite dish shall be located in a front or minimum required side yard, or at such an elevation that exceeds the maximum building height for the applicable zone except that satellite dishes and

other telecommunication equipment may be located on the roof of an apartment style multi-unit residential building.

5.27 ADULT ENTERTAINMENT PARLOURS

Notwithstanding any other provisions of this by-law, an adult entertainment parlour, as defined herein, shall not be permitted, either as a main use or as an accessory use, in any zone.

5.28 RECREATIONAL VEHICLE STORAGE

In any zone, the owner or occupant of any lot shall not store, as defined herein, any boat, tourist trailer or other similar recreational vehicle in any required front yard. Such vehicles may be stored in any rear or side yard behind or beside the main building within one (1) foot of the side lot line and two (2) feet of the rear lot line.

Notwithstanding the above paragraph, in the case of a commercial marina use, the storage of boats shall be permitted in any yard in accordance with approved site plan agreements.

5.29 LAKE ST. CLAIR FLOODPRONE AREA

Notwithstanding any other provisions of this by-law to the contrary, no part of any building or structure shall be built on lands located within the Lake St. Clair Floodprone Area, as depicted on Schedule "B" to this by-law, unless:

- a) the lowest opening of any such building or structure has a minimum building elevation above the 1:100 Year Flood Level at the building location as detailed in Ontario Regulation 147/90, as amended by Ontario Regulation 535/91, and as amended from time to time, Schedule 8, Maps 65 and 66, dated December, 1980, all of which are on file at the office of the Essex Region Conservation Authority and the Regional Office of the Ministry of Natural Resources in London, Ontario;

- b) the nearest wall of any such building or structure is setback a minimum of fifty (50) feet from the water's edge where approved shoreline protection works have been installed to the satisfaction of the local conservation authority, or one hundred (100) feet from the water's edge where no such shoreline protection works have been provided.

Notwithstanding the above paragraph, structures within commercial marina facilities which are deemed by the municipality to be more appropriately located near the water's edge, such as gas pumping stations and water based boating slips, shall be exempt from the setback. The precise location of such structures shall be in accordance with approved site plans.

5.30 SETBACKS FROM WATERCOURSES AND MUNICIPAL DRAINS

No part of any building or structure other than a permeable fence, shall hereafter be erected in any zone or defined area closer to an open watercourse or open municipal drain than twenty-five (25) feet plus the depth of the watercourse or drain to a maximum of fifty (50) feet, from the top of bank, measured horizontally along a line perpendicular to a line drawn along the top of bank, or in the case where a drain is covered or may be covered as authorized by the Council, the Drainage Superintendent or a municipal engineer, the minimum setback shall be ten (10) feet from the centreline of the drain.

Notwithstanding the above paragraph, structures within commercial marina facilities which are deemed by the municipality to be more appropriately located near the water's edge, such as gas pumping stations and water based boating slips, shall be exempt from the setback. The precise location of such structures shall be in accordance with approved site plans.

5.31 FLOODPRONE DEVELOPMENT CONTROL AREA

The Floodprone Development Control Area as shown on Schedule "B" of this by-law is that area which lies within the regulatory (1:100 Year) floodplain or the maximum observed floodplain of the adjacent watercourse. Within this area, there is the floodway which is defined herein. Development within the Floodway, with the exception of a permeable fence, is prohibited. That area within the Floodprone Development Control Area but outside of the Floodway shall only be

developed in accordance with the provisions for the underlying zones and shall be floodproofed to the satisfaction of the Essex Region Conservation Authority to ensure that building openings are located above the elevation of the 1:100 Year Flood Level at the building location as detailed in Ontario Regulation 147/90, as amended by Ontario Regulation 535/91, and as amended from time to time, Schedule 8, Maps 66 and 66A, dated December, 1980, all of which are on file at the office of the Essex Region Conservation Authority and the Regional Office of the Ministry of Natural Resources in London, Ontario.

5.32 SETBACKS FROM EASEMENTS

No building or structure shall be allowed within two (2) feet of any easement.

5.33 BOAT DOCKS AND BOAT HOUSES

Notwithstanding any other provisions of the by-law to the contrary, unenclosed boat docks and unenclosed boat lifts are permitted in all zones provided they are not more than three (3) feet above grade of the closest land. Accessory buildings or structures on boat docks are prohibited because of their potential to interfere with the view. This provision shall not apply to lands used for commercial marina purposes but such lands shall be governed by the more specific provisions herein relating to marinas.

5.34 DRIVEWAY REGULATIONS

- a) A driveway serving a dwelling in a residential zone shall have a maximum width of 25 feet or 40 percent of the lot line abutting the street that the driveway traverses, whichever is greater, up to a maximum of 30 feet.
- b) The minimum distance between a driveway and a lot line shall be 1.64 feet, save and except the lot line over which the driveway traverses.
- c) The minimum distance between a driveway and an intersection of street lines, measured along the street line intersected by such driveway, shall be 30 feet.
- d) The minimum angle of intersection between a driveway and a street line shall be 60 degrees.
- e) Every lot shall have a minimum of one driveway and a maximum of two driveways for any permitted use.