

SECTION 4 - GENERAL PROVISIONS

4.1 ACCESSORY BUILDINGS, USES AND STRUCTURES

4.1.1 Where a use is permitted under the provisions of this By-law, accessory uses, buildings and structures normally incidental to the main use, building or structure shall also be permitted. Swimming pools and structures accessory thereto are considered to be detached accessory structures for the purpose of this section.

4.1.2 No accessory building or structure shall be used for human habitation except where a dwelling is a permitted accessory use or where the accessory building or structure forms part of the main building.

4.1.3 Where an accessory building is necessary for the storage of tools or materials for use in connection with the construction of the main building on a lot in any Zone, the accessory building may be erected on the lot before the erection of the main building provided that a building permit is issued for the main building and further provided that such building shall be used only for the purpose of storage.

4.1.4 No accessory building in any Residential Zone shall,
(a) be a quonset or nissen hut;
(b) have a half-cylindrical or semi-circular roof shape; and
(c) where the building area exceeds 10 m², have an exterior of corrugated metal, other than a roof.
d) Pre-Fabricated Shipping Container

4.1.5 Maximum Lot Coverage

The maximum lot coverage for all detached accessory buildings and structures in the R1, R2, R3, SR, LSR, RMH, RE, RU and A Zones shall be 10%. A swimming pool shall not be considered as part of the lot coverage in any Zone, provided no part of the swimming pool protrudes more than 1.4 metres above the ground level surrounding the swimming pool. Decks which are attached or directly abutting a dwelling shall be considered part of the lot coverage for the main building

4.1.6 Maximum Ground Floor Area

The *Maximum Ground Floor Area* of any one detached accessory building or structure in a residential zone, shall not exceed 93 square metres on lots that have a lot area of less than 4,046 square metres (1 acre), nor shall the height exceed 5.0 metres, except in the case of a

private garage constructed as an integral part of a dwelling. On residential zoned lots with a lot area greater than 4,046 square metres, no accessory building or structure shall occupy more 111 square metres of ground floor area, nor shall the height exceed 6.0 metres, except in the case of a private garage constructed as an integral part of a dwelling.

On lots in the Agricultural and Rural Zones which are less than 2 hectares in lot area, no accessory building or structure shall occupy more than 130 square metres or ground floor area, nor shall the height exceed 11.0 metres, except in the case of a private garage constructed as an integral part of a dwelling.

Notwithstanding the above provisions of Section 4.1.6, the gross floor area of any detached accessory building or structure shall not exceed the gross floor area of the existing dwelling on the lot.

The above provisions shall not apply to accessory buildings or structures in the C1, C2, C3, C4, C5, C6, MAR, M1 or M2 Zones. The provisions of the principal use shall apply.

In all other zones, the maximum height of a detached accessory structure is 11.0 metres.

4.1.7 Maximum Quantity

In the Village Residential "R1" Zone, the Village Residential "R2" Zone, the Village Residential – Special "R2-S" Zone, Residential Estate "RE" Zone, the Shoreline Residential "SR" Zone and the Limited Service Residential "LSR" Zone, a maximum of two detached accessory buildings shall be permitted. Accessory buildings which are less than 10m² in floor area shall not be included as part of this section 4.1.8 of the Zoning By-law.

4.1.8 Setbacks

- a) Unless otherwise prescribed in this sub-section, detached accessory buildings and structures must comply with the minimum yard requirements of the Zone in which the building or structure is located.
- b) In Residential Zones a maximum of one (1) detached Accessory building may be permitted to be located in the front yard, but not in the required front yard setback of the main building. Accessory Buildings/Structures in the A and RU Zones are permitted in the front yard, but not in the required front yard.

- (c) For those lands in the R1, R2, R3, SR, RMH, D and LSR Zones, a detached private garage or other accessory building/structure may be erected and used in an interior side and/or rear yard provided that it shall be no closer than two (2) metre to the interior side or rear yard lot line. An attached private garage in the above zones, may be erected and used in an interior side and/or rear yard provided that it shall be no closer than one (1) metre to the interior side or rear yard lot line shall except where a mutual garage is erected on the common lot line between two lots, in which case no interior side yard is required
- (d) For those lands in the RU and A Zones, detached private garage or other detached building accessory to a dwelling may be erected and used in an interior side and/or rear yard provided that it shall be no closer than three (3) metres to the interior side and/or rear yard; shall not exceed 54 square metres in ground floor area; and, shall not exceed a height of 4.5 metres, provided that the maximum number of said buildings is one (1). Detached private garage or other detached accessory building greater than 55 square metres shall meet the same setback as the main use on the lot. Private garages which are attached to the dwelling shall meet the setbacks of the main use.
- (e) For those lands in the RU and A Zones, detached buildings accessory to a dwelling may be erected and used in an interior side and/or rear yard provided that they shall be no closer than one (1) metre to the interior side and/or rear yard; shall not exceed 10 square metres in ground floor area per accessory building; and, shall not exceed a height of 3.0 metres, provided the maximum number of said buildings is two (2).
- (f) For those lands in the C1, C2, C3, C4 and I Zones, accessory buildings and structures are permitted in the interior side and/or rear yards provided it is setback a minimum of 1.5 metres from any lot line.
- (g) Notwithstanding any of the above provisions, a detached accessory building or structure is permitted in the front yard on a waterfront lot, provided it is located no closer than 6.0 meters from the front lot line.
- (h) The minimum required setback for an accessory building/structure for a through lot shall be the same as the main building on the lot.
- (i) Accessory Buildings/Structures shall be set back a minimum distance of 1.0 metre from the main building on the lot and be set back a minimum distance of 1.0 metres from any detached

accessory building on the same lot.

4.1.9 Detached Accessory Building and Structures less than 10m²

Detached accessory building or structures which are less than 10 square metres in ground floor area shall:

- a) shall not be located in the front yard in all residential zones;
- b) shall be setback a minimum of 1.0 metres from the rear lot line
- c) shall be setback a minimum of 1.0 metres from interior side lot lines;
- d) shall meet the exterior setback of the main building of the zone;
- e) shall have a maximum height of 2.5 metres;
- f) shall be no closer than 0.5 metres from the main use of the lot;
- g) Shall be limited to 2 detached accessory structures/buildings with a size of less than 10 square metres. This shall not be included in the maximum number of accessory buildings as outlined in Section 4.1.8; and
- h) Shall be subject to the lot coverage provisions of Section 4.1.5.

4.1.10 Boat Houses, Pump Houses, and Boat Docks

Boat houses, pump houses, and boat docks are permitted in any yard of a waterfront lot except the front yard, provided they are located no closer than 1.0 metre setback from the interior side lot line and 3.0 metres from the flankage lot line.

4.1.11 Swimming Pools

Notwithstanding any provisions in this section, in a Residential Zone a swimming pool shall not be located any closer than 1.0 metres from the interior side and rear lot lines. In all zones, swimming pools shall not be located in the front or exterior side yards.

4.1.12 Fences

Notwithstanding any provision of this By-law to the contrary, in Residential Zones, fences shall not exceed 1.2 metres in height on the front lot line, and shall not exceed 1.2 metres in height to the distance required for front yard setbacks and thereafter a maximum of 2.13 metres. For the purpose of this By-law, fences are deemed not to be structures.

4.1.13 Outdoor Solid-fuel-combustion Appliance

An outdoor solid-fuel-combustion appliance is only permitted in Rural and Agricultural Zones in accordance with the following provisions:

- (a) Not more than one (1) outdoor solid-fuel-combustion appliance per lot accessory to a permitted main use;
- (b) The outdoor solid-fuel-combustion appliance cannot be located closer than 45 metres to any lot line;
- (c) The outdoor solid-fuel-combustion appliance cannot be located closer than 15 metres to any building;
- (d) The outdoor solid-fuel-combustion appliance must be fitted with a chimney no less than 3.6 metres in height from ground and must be equipped with a rain cap/spark shield.
- (e) That the perimeter around the outdoor solid-fuel-combustion appliance to a distance of 3 metres from the unit shall remain free from any combustible material.
- (f) Outdoor solid-fuel-combustion appliance must be listed as a “Phase 2 White Tag Model” by the United States Environmental Protection Agency or bear a certification mark certifying conformity with the Canadian CSA-415 standard for these appliances.
- (g) Outdoor solid-fuel-combustion appliances shall be maintained and operated so as not to cause a nuisance for a duration of more than two minutes except during the starting or refueling of the appliance for a period not to exceed thirty minutes in any four-hour period.
- (h) Notwithstanding the provisions of Sections 4.12 “Legal Non-complying Building and Structures” any replacement of an outdoor solid-fuel-combustion appliance must meet the provisions of this By-law.

4.2 ACCESSORY DWELLING UNITS

4.2.1 Where in this By-law, a single-detached dwelling or a semi-detached dwelling is a permitted use, an accessory dwelling unit is also a permitted use where such dwelling is serviced by a municipal sewage disposal system.

4.2.2 Where in this By-law a single detached dwelling or a semi-detached dwelling is a permitted use, and the dwelling is serviced by a private sewage disposal system, an accessory dwelling unit is also permitted by this By-law, subject to the following:

- (a) The appropriate agency and/or Ministry have approved the private sewage disposal system to service the two dwelling units.
- (b) Occupancy of the accessory dwelling unit shall not be permitted until an Occupancy Permit has been issued by the Township.

- 4.2.3 Notwithstanding the provisions of this By-law, accessory dwelling units are not permitted within duplex dwellings, townhouses, street townhouses, or within apartments.

4.3 ADDITIONS TO BUILDINGS – INSUFFICIENT PARKING

When a building or structure has insufficient parking on the date of the passing of this By-law to comply with the requirements herein, this By-law shall not be construed to require that the deficiency be made up prior to the construction of any addition. No addition may be built and no change of use may occur, however, the effect of which would be an increase in that deficiency.

Notwithstanding the provisions of Subsection 5.3 “Parking Requirements by Use” where an agreement between Council and the owner of a property has been entered into pursuant to The Planning Act, as amended, exempting the owner from the requirement to provide parking, only the number of parking spaces as set out in the agreement are required to be provided and for the purpose of this By-law, the property and use shall be deemed to comply with the Zoning By-law in this respect.

4.4 BED AND BREAKFAST ESTABLISHMENTS

In all Zones where bed and breakfast establishments are permitted, the use shall be carried out in accordance with the following provisions:

- (a) The use shall be carried on by the landowner who resides in the dwelling unit.
- (b) Any plate or sign shall be attached and parallel to the main building.
- (c) The use shall not create or become a nuisance because of noise or traffic or otherwise interfere with the enjoyment of the amenities of the adjacent neighbourhood or lands.
- (d) The use shall only be permitted where the existing lot abuts upon and has frontage on a public street assumed for public use.

4.5 FRONTAGE ON A PUBLIC STREET

- 4.5.1 No buildings or structure shall be erected, extended or enlarged on any lot within the Township of Tay unless such lot fronts on an improved public street.

4.5.2 Lots in a Limited Service Residential “LSR” Zone

Notwithstanding Section 4.5.1, where an existing lot that is in a Limited Service Residential “LSR” Zone, does not abut upon an improved public street, a building permit may be issued for a building or a structure to be erected, extended, enlarged or replaced provided:

- (a) The Holding (H) symbol applying to the lands is removed; and,
- (b) The lot in question meets all of the other requirements of this By-law and is a lot as defined herein; and,
- (c) Approval from the appropriate agency is obtained for the sewage system; and,
- (d) The applicant, at his or her expense, prior to a building permit being issued, enters into an acknowledgement with the municipality. This acknowledgement shall indicate that:
 - (1) the owner acknowledges and agrees that the lot in question does not front on an improved public road or street;
 - (2) the owner acknowledges and agrees that the Township does not maintain or snow plow the said private road or street;
 - (3) the owner acknowledges and agrees that the Township will not take over or assume a private road or street as a Township public road or street unless it has been built according to municipal standards; and,
 - (4) the owner acknowledges and agrees not to request the Township to assume or take over the said private road or street.

4.5.3 Lots on Islands

Notwithstanding Section 4.5.1, where an existing lot is located on all or part of an island surrounded by navigable water, a building permit may be issued for a building or structure to be erected, extended or enlarged provided:

- (a) The Holding (H) symbol applying to the lands is removed if required; and,

- (b) Lot in question meets all other requirements of this By-law and is a lot as defined herein; and,
- (c) Approval from the appropriate agency is obtained for the sewage disposal system; and,
- (d) The applicant, at his or her expense, prior to a building permit being issued, enters into an acknowledgement with the municipality. This acknowledgement shall indicate that normal municipal services are not available for the lot in question.

4.6 HEIGHT EXCEPTIONS

Notwithstanding the height provisions established in each Zone, nothing in this By-law shall apply to prevent the erection of a church spire, belfry, clock tower, chimney, farm building, or structure, water tank, radio or television tower or antenna, silo, windmill, drive-in theatre screen, forestry tower, aid to navigation, flag pole, ventilator, elevation enclosure or fire hose tower that does not comply with the maximum height provision of a Zone.

4.7 HOLDING SYMBOL

- 4.7.1 Where a Zone symbol is followed by the symbol (H), no person shall use any land, erect, alter, enlarge, use or maintain any building or structure for any use other than those existing at the date of the passing of the specific By-law. Notwithstanding the above, accessory buildings to an existing use such as barns or private garages and renovations to existing accessory buildings shall be permitted without the need to remove the holding symbol.

Unless otherwise specified in this section, in order to remove a Holding (H) symbol, one, two or all of the conditions below must be fulfilled:

- (a) Provision of, and connection to, full municipal services.
- (b) Issuance of permits for private sewage disposal and water supply from the appropriate agencies where full municipal services are not planned.
- (c) Enter into a private road acknowledgement with the Township of Tay referred to in Section 4.5.

- 4.7.2 For those lands that are located within a Waste Disposal Assessment Area, existing and accessory use are permitted; and further the said use may be extended enlarged, reconstructed, replaced, repaired or renovated provided that the coverage of the property is not increased and all other applicable zone provisions of the by-law are complied with.

4.7.3 For those lands located in Part Lot 15, Concession 8 and north and south of the unopened portion of Lovejoy Street and zoned with the Holding Symbol (H), the following conditions shall be met prior to the removal of the Holding Symbol by By-law:

- (a) Provision of full municipal services,
- (b) Dedication to the Township of a 3.36 metre road widening strip free and clear of all encumbrances.
- (c) Payment to the Township of the lots share of the cost of the extension of full municipal services.

4.7.4 LSR(H)

For those lands zoned "LSR(H)", located in part of Lot 15, Concession 12 and south of Gerhardt Road and east of the private Severn Trail Lane, and having an approximate area of 5 hectares, these lands may not be used for any other purpose than that which legally existed on the March 8th, 2001 until the Holding Symbol (H) is removed in accordance with the Planning Act. Specifically, the Holding (H) symbol shall not be removed until such time as a Environmental Impact Assessment study as required by Section 4.8.3.4 of the Official Plan has been submitted and approved for the 5 hectare parcel.

4.7.5 LSR – 7 (H)

In addition to the provisions of Subsection 4.5, for property zoned LSR-7(H), the Holding Symbol shall not be removed until such time as the Owner of the subject property has completed the following at his/her expense:

- (a) the private street on which the subject property fronts, must have a driveable width of 6 metres and a minimum weight rating of 11,340 kg from Bass Bay Drive to and including the full frontage of the property to the Township's satisfaction;
- (b) the recommendations of an engineer's drainage study for the development of the subject property, including downstream improvements, have been implemented to the Township's satisfaction;
- (c) the recommendations of a hydrogeologist's study for the development for the subject property addressing both well and septic servicing has been implemented to the Township's satisfaction;

- (d) the subject property be serviced with a tertiary treatment sewage system meeting the requirements of the Ontario Building Code; and,
- (e) a development agreement between the Owner of the subject property and the Township shall be required to implement mandatory road maintenance by the Owner regarding the private street from Bass Bay Drive to and including the full frontage of the property and to implement any/or all of the above requirements.

4.8 HOME OCCUPATIONS and HOME INDUSTRIES

In all Zones where a home occupation or home industry is permitted, such uses shall be conducted in accordance with the following provisions:

- 4.8.1 Home occupations are accessory to a residential use, and are intended to accommodate a practitioner or professional residing on the premises. Uses that may be considered a home occupation include:
- A professional, medical or business office (e.g., chiropractor, law office).
 - A personal service shop (e.g., pet groomer, hairstylist).
 - An art/music studio (e.g., photography, piano).
 - A private home daycare.
 - A private tutor/instructor.
 - A home catering service preparing food to be consumed off-site.
 - A small electronic, appliance or computer repair.

Where a home occupation is permitted in a zone, the home occupation:

- a) *A home occupation shall be located entirely within a detached accessory building and/or the main building on the lot.*
- b) Shall clearly be secondary to the main residential use on the lot and does not change the residential character of the dwelling;
- c) The residential appearance and character of the *dwelling* shall be maintained.
- d) *A maximum of one (1) home occupation shall be permitted per dwelling unit.*
- e) *A home occupation shall only occupy a maximum of 35% of the gross floor area of the dwelling unit, if the home occupation is contained in a dwelling unit in the main building on the lot.*

- f) A *home occupation* shall not occupy more than 50 percent of the *gross floor area* of one (1) detached *accessory building* in a Residential Zone and 100 percent of the gross floor area up to a maximum of 100 square metres in one (1) detached accessory building in the Agricultural or Rural Zones up to a maximum of 100 square metres if the home occupation is contained within a detached accessory building.
- g) A *home occupation* shall be operated by the *person* or *persons* whose principal residence is the *dwelling* in which the *home occupation* is located, and a maximum of two *persons* who does not reside in the *dwelling* as a principal residence shall be employed by the *home occupation*, in addition to the residents of the *dwelling*.
- h) A *sign* is permitted to be displayed on the *lot* for *home occupation*, provided:
 - i. A maximum of one (1) *sign* is permitted on a *lot* for each permitted *home occupation*; and,
 - ii. The *sign* shall comply with the *Township's Sign By-law*.
- i) The use shall not create or become a nuisance because of noise, fumes, dust, odour, traffic or otherwise interfere with the enjoyment of the amenities of the adjacent neighbourhood or lands.
- j) There shall be no outside storage or display of materials, containers, finished products or mechanical equipment in Residential Zones.
- k) The use shall only be permitted where the existing lot abuts upon and has frontage on an improved public street assumed for public use.
- l) The use shall not involve retailing or the sale of any commodity not produced on the premises except that a telephone, internet or mail order sale of goods is permitted.
- m) The use shall not require the receipt or delivery of merchandise, goods or equipment by any other than a passenger motor vehicle or parcel carrier employed in residential deliveries.
- n) Notwithstanding the requirement for a home occupation to be conducted entirely within a dwelling or accessory building, a private home daycare facility may allow for an outdoor play or amenity area, which shall not be counted as part of the size of the operation.
- o) To monitor and control home occupation uses, the Township may require the appropriate licensing of such uses as may be provided for under the Municipal Act.

4.8.2 Home Industries

Home industries are considered to be uses located outside of settlement areas and are accessory and subordinate to the residential and/or agricultural use of the property. Home industries are intended to accommodate a single professional or tradesperson. Uses that may be considered a home industry are limited to a trade business or a more intensive home occupation requiring the use of an accessory building (e.g., woodworking).

Where a home industry is permitted in a zone, the home industry:

- a) Shall clearly be secondary and incidental to a permitted residential use.
- b) Shall be conducted either entirely within a primary dwelling or an accessory building thereto.
- c) Shall be conducted by at least one of the residents of a dwelling unit located on the same lot.
- d) Shall not occupy more than twenty-five percent (35%) of the gross floor area of the dwelling unit, if the home occupation is contained in a dwelling unit in the main building on the lot.
- e) May occupy one hundred percent (100%) of the gross floor area to a maximum of 100 square metres of one (1) detached accessory building, if the home industry is contained within a detached accessory building.
- f) Shall not create noise, vibration, fumes, odour, dust, glare, or radiation which is evident outside the building in which the use occurs.
- g) Shall not employ more than two (2) employees who is not a resident of the dwelling unit on the lot.
- h) Shall not involve the use or storage of hazardous substances in types or quantities exceeding those normally found in a residential use.
- i) Shall not involve the repair or maintenance of motor vehicles, construction equipment or vehicles, or industrial equipment or vehicles, but may involve small engine repair outside of a settlement area as outlined in the Official Plan.
- j) The use shall not involve retailing or sale of any commodity not produced on the premises, except that telephone, internet or mail order sales of goods is permitted.
- k) Shall, other than on lands zoned Agricultural or Rural, not require receipt or delivery of merchandise, goods, or equipment by other than intermittent delivery by a passenger motor vehicle or by parcel or letter carrier mail service using motor vehicles typically employed in residential deliveries.
- l) A *sign* is permitted to be displayed on the *lot* for the home industry, provided:

- i. A maximum of one (1) *sign* is permitted on a *lot* for each permitted home and;
 - ii. The *sign* shall comply with the *Township's Sign By-law*.
- m) Shall not include accessory outdoor storage, display or sales.
- n) To monitor and control home industry uses, the Township may require the appropriate licensing of such uses as may be provided for under the Municipal Act.

4.9 INFILLING LOTS - EXCEPTION TO FRONT YARD REQUIREMENTS

Notwithstanding any other provisions in this By-law, where a single detached dwelling is to be erected in a R1, R2, R3, SR or LSR Zone where there is an established building line, the minimum required front yard for any such use may be reduced, in accordance with the established building line, as defined by this By-law.

In no case shall the front yard be less than fifty (50) percent of the otherwise required front yard.

4.10 INGRESS – EGRESS

- 4.10.1 Ingress and egress to and from the required parking spaces and areas for non-commercial and non-industrial zones shall be provided by means of unobstructed driveways or passageways at least 3.0 metres in perpendicular width.
- 4.10.2 Ingress and egress to and from the required parking spaces and areas for commercial and industrial zones shall be required by means of unobstructed driveways or passageways at least 5.5 metres minimum for one-way traffic and 7.5 metres minimum for two-way traffic in perpendicular width.
- 4.10.3 The maximum width of any driveway for ingress and egress measured along the street line shall be 6.0 metres or 35 percent, unless specified otherwise in this By-law.
- 4.10.4 Driveways shall not be permitted within 15.0 metres from the intersection of two streets or their projection.
- 4.10.5 The minimum angle of intersection between a driveway and a street line shall be sixty (60) degrees.
- 4.10.6 Every lot shall be limited to the following number of driveways:

- (a) Up to the first 30 metres of frontage, no more than (2) driveways with a combined width not exceeding thirty (30) percent of the lot frontage; and
- (b) For each additional 30 metres of frontage, not more than one (1) additional driveway.
- (c) When a lot is permitted to have more than one driveway, each driveway ingress and egress shall be separated by a minimum 3 metres *landscaped open space*, which is to be measured along the front or exterior lot lines.

4.11 LOTS, SUBSTANDARD

- 4.11.1 Where a lot having a lesser frontage or area than required by the provisions of this by-law is held under a distinct and separate ownership from abutting lots as shown by a valid registered conveyance with a good and marketable title in fee simple in the records of the Registry or Land Titles Office at the time of the passing of this By-law, or where such a lot is created as a result of an expropriation or a lot on a registered Plan of Subdivision registered prior to the date of passage of this By-law and after the year 1955, such a lot may be used in conformity with the permitted uses of the Zone in which it is located unless a permitted use requires a greater lot area and/or frontage for a use that did not exist at the time of the passing of this By-law, in which case, should a change of use occur, the higher standard would be required and further if the property is vacant on the date of passing of this By-law, the use(s) that require the least lot area shall be permitted, provided it conforms to all other requirements of this By-law and the regulations of any other appropriate authority.
- 4.11.2 Where a public authority acquires lands and such acquisition deprives a parcel of land from street frontage, the part of such parcel so deprived of street frontage shall be deemed for the purpose of this By-law to have frontage on such street provided the land has a permanent right-of-access to such street granted in accordance with the Planning Act.
- 4.11.3 Where a contravention to this By-law exists as a result of an expropriation or acquisition by an authority possessing such powers or is the result of an authorization granted pursuant to the provisions of the Planning Act, R.S.O. 1990, c.P.13, as amended, that part of such remaining lands, buildings or structures shall be deemed to conform to the provisions of this By-law.

4.12 LEGAL NON-COMPLYING BUILDINGS, STRUCTURES AND LOTS

Where a building or structure has been lawfully erected prior to January 1, 1994 on a lot having less than the minimum frontage and/or area, or having less than the minimum setback, and/or yard or any other provision required in this By-law, the said building or structure shall be deemed to comply with this By-law with respect to any such deficiency or deficiencies; and further the said building or structure may be extended, enlarged, reconstructed, relocated, replaced, repaired or renovated provided that:

- (a) The extension, enlargement, reconstruction, relocation, replacement, repair or renovation does not further encroach or increase the usable ground floor area in a required yard, or further reduce any setback; and
- (b) All other applicable provisions of this By-law are complied with.

4.13 LEGAL NON-CONFORMING USES

Nothing in this By-law shall:

- 4.13.1 Prevent the use of any land, building or structure for any purpose prohibited by this By-law if such land, building or structure was lawfully used for such purpose on the day of the passing of this By-law, so long as it continues to be used for that purpose; or
- 4.13.2 Prevent the strengthening or restoration to a safe condition of any building or structure lawfully used on the date of passing of the by-law applicable, provided that such strengthening or restoration will not change the location, height, area, volume or use of the building or structure; or
- 4.13.3 Prevent the replacement of a building or structure with a new building or structure in the case of partial or complete destruction caused by fire, lightning, explosion, tempest, flood or act of God, or demolition by order of the Corporation of the Township of Tay, or other authority for safety, health or sanitation requirements, so long as the replacement will not change the location, height, area volume or use of the original building or structure.
- 4.13.4 Prevent the addition of an unenclosed deck, stair or ramp, onto any building or structure used for any purpose prohibited by this By-law if such building or structure was lawfully used for such purpose on the

day of the passing of this By-law, so long as it continues to be used for that purpose.

- 4.13.5 For the purposes of this by-law, the date of passing of the Zoning By-law shall be January 1, 1994.

4.14 MOTOR VEHICLES, NOT IN RUNNING ORDER

Notwithstanding any other provision of this By-law, no person may use any lot in any Zone for the parking or storage of any vehicle that is not in running order, except that one such vehicle may be stored in a private garage in a Residential Zone. In all Commercial and Industrial Zones, such vehicles are permitted on a lot, provided the subject vehicles are not stored in a required yard and provided the storage of such vehicles is permitted by this By-law.

4.15 NUMBER OF DWELLINGS PER LOT

Not more than one dwelling per lot shall be allowed in any Zone unless otherwise specifically permitted.

4.16 OBNOXIOUS USES

Except as otherwise specifically permitted in this by-law, 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; or,
- (b) By reason of the emission of gas, fumes, smoke, dust or objectionable odour, except in the case of agricultural uses operating in compliance with The Farming and Food Protection Act; or,
- (c) By reason of the unsightly storage of goods, wares, merchandise, salvage, refuse matter, motor vehicles, trailers or parts of vehicles or trailers, machinery or other such material; or,
- (d) By any combination of these things described in clauses (a), (b), (c) of this subsection.

4.17 OCCUPANCY OF PARTIALLY COMPLETED DWELLINGS

No building shall be used for human habitation before an occupancy permit has been issued by the Municipality, to the effect that the proposed use complies with this By-law and the Building Code of Ontario.

4.18 OUTSIDE DISPLAY AND SALE OF GOODS

4.18.1 Where the outside display and sale of goods and materials is permitted, the following provisions shall be complied with:

- (a) Such outside display and sale is accessory to a commercial use carried on in an enclosed building or portion thereof, on the same lot;
- (b) The area used for outside display and sale shall not be more than twice the floor area above grade of the commercial building or portion thereof of any building constructed upon the lot, and used for the commercial purposes for which outside display and sale is permitted, and in any event, such area for outside display and sale shall not be more than thirty-five (35) percent of the lot area;
- (c) If the interior side lot line or rear lot line of a lot upon which such outside display and sale is permitted abuts a Residential Zone, then a planting strip shall be provided along such abutting lot line, or portion thereof in accordance with the requirements for planting strips set out in Section 4.21.
- (d) Where lighting facilities are provided, they shall be so arranged as to deflect the light onto the outside display and sale area and away from adjoining properties and streets;
- (e) The area used for outside display and sale shall be in addition to and separated from the areas required for parking;
- (f) The area used for outside display and sale shall provide side and rear yards in accordance with the provisions for the Zone in which the land is situated, but in any event shall not be closer to any side or rear lot line than 3.0 metres; and,
- (g) The area used for outside display and sale shall be surfaced and maintained with either concrete, asphalt, crushed stone and/or other hard surface and dustless materials, or maintained as a lawn.

4.19 OUTSIDE STORAGE PROHIBITED

Except as otherwise permitted in this By-law, no outside storage of goods or materials shall be permitted in any Zone.

4.20 PERMITTED YARD ENCROACHMENTS

The following structures are permitted to encroach into any required yard:

| STRUCTURE | YARDS IN WHICH PROJECTION IS PERMITTED | MAXIMUM PROJECTION INTO REQUIRED SETBACK |
|--|---|---|
| Sills, belt courses, cornices, eaves or canopies, gutters, chimneys or pilasters | All yards | 0.76 m |
| Fire escapes and exterior staircase | Rear yard Side yard | 0.92 m over a maximum width of 3.04 m |
| Window bays | Front yard Rear yard Exterior side yard | 0.61 m over a maximum width of 3.66 m |
| Balconies | Front yard Rear yard Exterior side yard Residential Zones only | 1.83 m |
| Cantilevered Main walls | All yards | 0.61 m |
| Verandahs, decks, stairs and porches not exceeding one storey in height | Front yard Rear yard | 1.83 m including eaves and cornices |
| | Interior Side Yard Exterior Side Yard | 0.5 metres (on one side) including eaves and cornices |

Enclosures to any porch or terrace permitted by this section shall be limited to 1.07 metres in height exclusive of roof supports, except where any form of latticing or screening is used for such enclosure.

4.21 PLANTING STRIPS

Where, in any Zone, this By-law requires that a planting strip be provided and maintained adjacent to a lot line or Zone boundary, such planting strip shall be provided in accordance with the following requirements:

- (a) The planting strip shall have a minimum width of 2.5 metres:

- (b) The planting strip shall consist of a solid and unbroken planting of shrubs or trees, the ultimate height of which is not less than 2.0 metres and a fence protected by vehicle curb stops or barriers. Such plant material shall not be less than 1.0 metre in height when planted.
- (c) The planting strip required in this By-law shall be installed and maintained by the owner of the lot upon which the planting strip is required.
- (d) The planting strip shall be completely contained on the lot or within the Zone for which the provision of planting strips is a requirement. Planting strips shall run along the entire length of the Zone boundary or lot line, unless otherwise specified.
- (e) A planting strip shall not be required where a sight triangle is required, as defined in this By-law.

4.22 PROHIBITED USES

4.22.1 Except as otherwise specifically permitted in this By-law, the following uses are prohibited in any Zone:

- (a) refining coal oil or petroleum products;
- (b) the manufacture or storage of or the use in manufacturing of coal, oil, burning fluid, naphtha, benzol benzine, gasoline, dynamite, nitro glycerine, gun powder, petroleum or other similar combustible or inflammable or dangerous liquid or material.
- (c) tanning hides or skins;
- (d) manufacturing gas except for personal utilization involving a permitted agricultural use;
- (e) manufacturing glue;
- (f) a facility for the racing or competitive demolition of motor vehicles, motorcycles, go-carts, all-terrain vehicles or snowmobiles;
- (g) locating or storing on any land for any purpose whatsoever any disused railroad car, truck, bus or coach body or whether or not the same is situated on a foundation;

(h) bulk storage of industrial chemicals or waste.

4.22.2 In addition to the uses prohibited in 4.22.1 of this Section, any use is prohibited which, from the nature of the materials used therein is declared under the Public Health Act or any regulations adopted thereunder to be a noxious trade, business or manufacture.

4.22.3 In addition to the uses prohibited in 4.22.1 of this Section, all uses of land and the erection or use of any building or structure for a purpose not permitted under the "Permitted Use" subsection of one or more Zones established by this By-law are and shall be deemed to be prohibited in each 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 Section 4.24 hereof.

4.23 PROVISIONS FOR LANDS IN THE VICINITY OF WATERCOURSES

4.23.1 Notwithstanding any other provision in this By-law, no main and/or habitable building or structure shall be located within 15.0 metres from the top of bank or high water mark of any watercourse.

4.23.2 No part of any flood plain shall be used in calculating the lot frontage, lot area, lot coverage, setback or yards required by this By-law.

4.24 PUBLIC USES

4.24.1 Nothing in this By-law shall prevent the use of any land or use of any building or structure for the purposes of public service by any telephone or telegraph company, any natural gas, hydro-electric transmission or distributing company, any department or Ministry of the Government of Ontario or Canada, provided that where such land, building or structure is located in any Zone:

(a) No goods, material or equipment shall be stored in the open except as permitted in such Zone; and

(b) The Zone provisions of the Zone in which the use is located shall be complied with; and

(c) Any above ground use carried on under the authority of this Section in any Residential or Rural Zone shall be designed and maintained in general harmony with the residential buildings of the type permitted in the Zone; and

(d) Areas not used for parking or playgrounds on any lot used in a

Residential Zone or Rural Zone under the authority of this paragraph shall be landscaped in general harmony with the surrounding properties; and

- (e) Any parking and loading regulations prescribed for these uses are complied with.

4.24.2 Nothing in this By-law shall prevent the use of any land as a public park, community park, playground, road allowance or as a site for a statue, monument, cenotaph, fountain or other memorial or ornamental structure.

4.24.3 Nothing in this By-law shall prevent the installation of a watermain, sanitary sewer main, storm sewer main, gas main, pipe line or overhead or underground hydro and telephone line.

4.24.4 Where a public authority acquires lands and such acquisition deprives a parcel of land from street frontage, the part of such parcel so deprived of street frontage shall be deemed for the purpose of this By-law to have frontage on such street provided the land has a permanent right-of-access to such street granted in accordance with the Planning Act.

4.24.5 Where a contravention to this By-law exists as a result of an expropriation or acquisition by an authority possessing such powers or is the result of an authorization granted pursuant to the provisions of The Planning Act, R.S.O. 1990, c.P. 13, as amended, that part of such remaining lands, buildings or structures shall be deemed to conform to the provisions of this By-law.

4.25 SERVICING REQUIREMENT

4.25.1 Any lot which has direct access to a municipal year round water supply or sanitary sewage collection system shall utilize such municipal service, otherwise the uses and structures permitted by this By-law to occur on the subject lot shall not be permitted. If a lot does not have direct access to a municipal year round water supply or sanitary sewage collection system, then uses and structures may be permitted on a private sewage treatment system or water services that have been approved by the appropriate agencies or authorities.

4.25.2 The Martyrs' Shrine, Sainte-Marie among the Hurons and the Wye Marsh Wildlife Centre

For those lands zoned Institutional "I", Institutional "I(H)" and/or Open Space "OS" that are located on Part of Lots 15 to 18, Concession 3, addressed as 16163 Highway 12 being The Martyrs'

Shrine; Part of Lot 16, Concession 3, addressed as 16164 Highway 12 being Sainte-Marie among the Hurons; and, Part of Lots 13 to 16, Concession 3 addressed as 16160 Highway 12 being the Wye Marsh Wildlife Centre, all new development including new buildings and structures and/or renovations to any existing structures that would increase the water and/or waste water servicing capacity provided by the Town of Midland, shall require the review and approval of the Town of Midland prior to issuance of any planning or building permit approvals.

4.26 SIGHT TRIANGLES

No hedge, shrub, tree or fence shall be planted, maintained or erected which would obstruct the vision of vehicular traffic on a corner lot within the triangular space formed by the street lines for a distance of 6.0 metres from their point of intersection.

4.27 TEMPORARY USES

4.27.1 Notwithstanding any other provisions of this By-law, uses such as a construction camp or other such temporary work camp, tool shed, scaffold, sign or other building or structure incidental to the construction, shall be permitted provided that:

- (a) Any sign which is erected does not exceed 3.0 square metres in area; and,
- (b) Such uses, buildings or structures are used only as long as same are necessary for work in progress which has neither been finished nor abandoned; and,
- (c) Such uses, buildings or structures are removed when the work in connection with which they were constructed is terminated; and,
- (d) Abandoned in this Section shall mean the failure to proceed expeditiously with the construction of a work.

4.28 THROUGH LOTS

Where a lot which is not a corner lot has frontage on more than one street, the front yard requirements contained herein shall apply on each street in accordance with the provisions of the Zone or Zones in which such lot is located.

4.29 STORING OF SPECIAL VEHICLES

- 4.29.1 No person shall use any lot in any Zone for the purpose of parking or storing a camper trailer, *travel trailer*, motor home, utility trailer, or boat except in accordance with the provisions of this section or as provided elsewhere in this By-law.
- 4.29.2 In a Rural or Agricultural Zone, the parking or outside storage of a camper trailer, *travel trailer*, a motor home, a utility trailer, a boat is permitted only where such use:
- i) is accessory to an existing permitted uses;
 - ii) is located in the rear or side yard and no closer than 1.0 metres to the lot lines; and,
 - iii) is limited to a maximum of one of each of either a camper trailer, *travel trailer*, a motor home, a utility trailer, or a boat and/or boat trailer.
 - iv) shall not be parking in the front yard with the exception of being permitted on a driveway, and shall have a 0.5 metre setback from the front lot line
- 4.29.3 In a Residential Zone and Development Zone, the parking or outside storage of a camper trailer, a motor home, *travel trailer*, utility trailer, a boat is permitted only where such use:
- i) is accessory to an existing residential use;
 - ii) is located in the rear or interior side yard and no closer than 1.0 metres to the lot lines;
 - iii) is limited to a maximum of one each of either a camper trailer, a motor home, *travel trailer*, utility trailer, or a boat.
 - iv) Such camper trailer, motor home, *travel trailer*, utility trailer, boat shall not exceed 9.5 metres in length over all exclusive of the hitch or tongue and 3.5 metres in width. In the case of a boat, the length shall not exceed 9.0 metres or 3.0 metres in beam width;
 - v) shall not be parked or stored in the front yard with the exception of being permitted on a driveway, and shall have a 0.5 metre setback from the front lot line.
- 4.29.4 The provisions of Subsection 4.29.3 shall also apply to an accessory residential use in a Non-Residential Zone.
- 4.29.5 Notwithstanding Subsection 4.29.3, in a Multiple Residential "R3" Zone, the parking or storing of a camper trailer, *travel trailer*, a motor home, a utility trailer, or boat is only permitted within a fully enclosed building, unless such property is being used for a single detached dwelling.
- 4.29.6 In all Zones, human habitation is prohibited in a *travel trailer*, *utility*

trailer, a boat, camper trailer or motor home unless otherwise permitted.

4.29.7 Notwithstanding the preceding subsections, the limitations imposed therein shall not restrict the number of camper trailers, *travel trailer*, motor homes, *utility trailers*, or boat that are fully enclosed within a private garage.

4.29.8 Notwithstanding the preceding subsections, the parking or storage of a *travel trailer*, a camper trailer, or a motor home may be permitted in the front yard on a driveway of a *lot* in a Residential Zone from 1 April to 31 October of each calendar year.

A *utility trailer* not more than 5.5m in length inclusive of projections and attachments is permitted to be parked or stored in a driveway year round, and shall be setback 0.5 metres from the front lot line.

4.30 USE OF VACANT LANDS

No vacant lot shall be used for the purpose of the storage of motor vehicles, machinery or equipment, trailers or other similar objects which are not incidental to the expeditious construction of a building on such lot, and where not otherwise specifically permitted by the provisions of this By-law.

4.31 WATERFRONT LOTS

Notwithstanding any other provision in this By-law, no building or structure shall be located within 15.0 metres of the 178.0 metres G.S.C. elevation on a waterfront lot abutting Georgian Bay. In addition, openings to any building or structure on a waterfront lot abutting Georgian Bay shall be located no lower than 178.5 metres G.S.C. This provision shall not apply to detached non-habitable accessory buildings and structures or structural works required for flood and/or erosion control or sedimentation control. This provision shall not apply to decks and/or stairs attached to a main dwelling provided that the encroachment meets the applicable zone regulations for the required minimum Rear Yard.

4.32 TEMPORARY PLACEMENT OF PRE-FABRICATED SHIPPING CONTAINERS

Notwithstanding any other provision in this By-law, the temporary placement of one pre-fabricated shipping container is permitted per lot in a Residential Zone provided the pre-fabricated shipping container:

- a) Is located on the driveway;
- b) Is set back a minimum of 1.0 metre from any lot line;
- c) not be located in a daylight corner;
- d) Has a maximum height of 2.5 metres, or a maximum width of 2.5 metres or a maximum length of 6.1 metres;
- e) Not encroach onto a public sidewalk or municipal right-of-way;
- f) Is not located on the lot for more than 90 days in a calendar year;
- g) Shall not be used for human habitation.

4.33 TEMPORARY PLACEMENT OF REFUSE CONSTRUCTION BINS

Notwithstanding any other provision in this By-law, the temporary placement of one *Refuse Construction Bin* is permitted per lot in a Residential Zone provided the refuse construction bin is:

- a) Is located on the driveway;
- b) Is set back a minimum of 1.0 metre from any lot line;
- c) Shall not be located in a daylight corner,
- d) Shall not encroach onto a public sidewalk or municipal right-of-way
- e) Is not located on the lot for more than 90 days in a calendar year.
- f) Shall not exceed 6.0 metres in length or 2.4 metres width or 2.4 in height.

4.34 BREEZWAYS

Where a breezeway connects a private garage to the main building on the lot, forming part of the main building, the following criteria must be met:

- a) The breezeway is a roof structure that is structurally connected to both buildings;
- b) The minimum width of a breezeway shall be 1.8 metres to a maximum of 2.5 metres in width, which is measured from the outside of support posts;
- c) The maximum permitted height of a breezeway shall be 4.5 metres;
- d) The maximum length of a breezeway shall be 9.0 metres.