

OFFICE CONSOLIDATION

TOWN OF PELHAM ZONING BY-LAW NO. 1136 (1987), as amended

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**SECTION 6 - GENERAL PROVISIONS**

**6.1 ACCESSORY USES**

(a) GENERAL

Where this By-law provides that a lot may be used or a building or structure may be erected or used for a purpose, that purpose shall include any accessory building or structure or accessory use, but shall not include (1) any occupation for gain or profit conducted within or accessory to a dwelling house or unit except as in this By-law is specifically permitted, or (2) any building used for human habitation except as in this By-law is specifically permitted.

(b) LOCATION

Except as otherwise provided herein, in a Residential zone any accessory building or structure which is not part of the main building shall be erected to the rear of the required front yard and shall not be located closer to any lot line than 1.2 m (3.94 ft) or closer to any street than the required yard for the main building or structure.

In all other zones any accessory building or structure which is not part of the main structure shall be erected to the rear of the front yard and shall not be located closer to any lot line than the required yard of the main building or structure.

(c) MAXIMUM HEIGHT

Except as otherwise provided herein, no accessory residential building or structure shall exceed 3.7 m (12.14 ft) in height.

(d) LOT COVERAGE

The total lot coverage of all accessory buildings on a lot shall not exceed 10% of the lot area.

(e) UNDERGROUND PARKING

The yard requirements of this By-law shall not apply to underground parking structures.

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(f) SWIMMING POOLS

(i) Location in Any Zone

Notwithstanding any other provision of this By-law to the contrary, in any zone a swimming pool may be erected and used in any side yard or rear yard, provided:

1. no interior wall surface of any such swimming pool shall be located closer than 1.5 m (4.92 ft) to any side lot line, rear lot line or exterior side lot line, or closer than 3.0 m (9.84 ft) to that portion of a rear lot line which abuts a side lot line of any adjoining lot;
2. no water circulating or treatment equipment, such as pumps or filters, shall be located closer than 3.0 m (9.84 ft) to any side lot line or rear lot line or 1.2 m (4.0 ft) to any side lot line or rear lot line if enclosed in an accessory building or structure or closer to any street than the required yard for the main building or structure.

(ii) Notwithstanding the above, a swimming pool may be permitted in any front yard beyond the required front yard in any commercial Zone.

(iii) Lot Coverage Exemption

A swimming pool shall not be considered as part of the lot coverage provided no part of the swimming pool or its railing protrudes more than 1.4 m (4.59 ft) above the ground level on any side surrounding the swimming pool.

(iv) Indoor Swimming Pools

A separate building or structure containing or enclosing a swimming pool shall comply with all the accessory building provisions of the zone in which such building or structure is located.

(g) SATELLITE DISH ANTENNA

Satellite dish antenna shall be subject to the accessory building provisions of this By-law except:-

- (i) satellite dish antenna shall only be permitted in the rear yard in any zone or any front or side yard beyond the minimum yard requirements in a commercial zone.

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#### **6.2 DWELLING UNITS BELOW GRADE**

No dwelling unit shall in its entirety be located in a cellar. If any portion of a dwelling unit is located in a cellar, such portion of the dwelling unit shall not be used for sleeping or eating accommodation.

However, a dwelling unit, in its entirety, may be located in a basement provided that the floor level of such basement is not more than 1.2 metres below the adjacent finished grade.

#### **6.3 EXTERNAL DESIGN - deleted as per By-law No. 1609 (1993)**

#### **6.4 FRONTAGE ON IMPROVED STREET**

- (a) No person shall erect any building or structure in any zone unless the lot upon which such building or structure is to be erected fronts upon an improved street.
- (b) For the purposes of this subsection a "street" shall not include a lane or private right-of-way.
- (c) For the purpose of this subsection an "improved street" means a street which has been constructed in such a manner so as to permit its use by normal vehicular traffic.

#### **6.5 GROUP HOMES**

- (i) A group home shall be permitted within any single detached dwelling, subject to the distance separation features outlined in subsection (iii) and (iv) hereof.
- (ii) Only group homes licensed by the Ministry of Community and Social Services in the following categories shall be permitted:
  - (a) Approved Homes (psychiatric care)
  - (b) Satellite Residence for Seniors
  - (c) Accommodation Services for the Developmentally Handicapped
  - (d) Children's Residences
  - (e) Homes for Special Care
  - (f) Supportive Housing Programs, Adult Community Mental Health Programs
  - (g) Homes for Physically Disabled Adults provided the province licences, funds or approves a group home program for physically disabled adults.
- (iii) Save as hereinafter provided, a group home in any zone in which single-family residential uses are permitted, shall not be within 300 m (984.25 ft) of another group home.

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- (iv) A group home in any area zoned Agricultural A or Special Rural SR shall not be within one kilometer of another group home.
- (v) A group home shall have a maximum of six residents excluding staff or receiving family.

## 6.6 HEIGHT EXCEPTIONS

Subject to Section 30 (25) and, except as otherwise provided for in this By-law, nothing in this By-law shall apply to restrict the height of the following structures in any zone.

- (i) an antenna;
- (ii) a barn;
- (iii) a belfry;
- (iv) a chimney;
- (v) a church spire;
- (vi) a clock tower;
- (vii) an elevator or stairway penthouse;
- (viii) a flag pole;
- (ix) a hydro-electric transmission tower;
- (x) an ornamental structure;
- (xi) a radio antenna;
- (xii) a silo;
- (xiii) a steeple;
- (xiv) a structure containing heating, cooling, or other mechanized equipment pertaining to a building;
- (xv) a tower;
- (xvi) a water tower;
- (xvii) a windmill;

provided that no such structure, other than a public use, occupies in excess of 5% of the lot area of the lot where such structure is located or, where such structure is located on the roof of a building, shall exceed 10% of the building area. Building area is the greatest horizontal area of a building within the outside surface of exterior walls.

## 6.7 HOME OCCUPATIONS

No home occupation shall be permitted in any zone unless permitted in such zone and complies with the following provisions:

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#### (a) SIZE

Not more than 25% of the dwelling unit area shall be used for the purpose of home occupation uses, except this restriction shall not apply to "day nurseries" as defined herein.

#### (b) ACCESSORY BUILDINGS

No accessory building shall be erected, altered or used for the purposes of a home occupation.

#### (c) OCCUPANCY

The home occupation shall only be carried out by a resident of the dwelling unit in which the home occupation is located.

#### (d) ADVERTISING

There shall be no external display or advertising to indicate to persons outside that any part of the dwelling, dwelling unit or lot is being used for a purpose other than residential.

#### (e) SALES OR RENTALS

On any lot containing a home occupation, there shall be no goods, wares or merchandise, other than those produced on the premises, offered or exposed for sale or rent outside the dwelling.

#### (f) OPEN STORAGE AREA

No part of any lot containing a home occupation shall be used as an open storage area accessory to that home occupation use.

### **6.8 LANES AS YARDS - deleted as per By-law No. 1609 (1993)**

### **6.9 LOADING SPACE REGULATIONS**

#### (a) LOADING SPACE REQUIREMENTS

The owner or occupant of any lot, building or structure used or erected for any purpose involving the receiving, shipping, loading or unloading of animals, goods, wares, merchandise or raw materials, other than a farm, shall provide and maintain, on the same lot, facilities comprising one or more loading spaces in accordance with the provisions of this subsection.

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(b) LOADING SPACE REQUIREMENTS FOR INDUSTRIAL USES

The number of loading spaces required on a lot shall be based on the total gross floor area of all the uses on the said lot for which loading spaces are required, in accordance with the following:

- (i) less than 500 m<sup>2</sup> (5,382.13 ft<sup>2</sup>) of total gross floor area - 0 loading spaces
- (ii) over 500 m<sup>2</sup> (5,382.13 ft<sup>2</sup>) up to and including 2,500 m<sup>2</sup> (26,910.66 ft<sup>2</sup>) of total gross floor area - 1 loading space
- (iii) over 2500 m<sup>2</sup> (26,910.66 ft<sup>2</sup>) up to and including 10,000 m<sup>2</sup> (107,642.62 ft<sup>2</sup>) of total gross floor area - 2 loading spaces
- (iv) over 10,000 m<sup>2</sup> (107,642.62 ft<sup>2</sup>) of total gross floor area - 2 loading spaces plus one (1) additional loading space for each 10,000 m<sup>2</sup> (107,642.62 ft<sup>2</sup>) of total gross floor area or part thereof in excess of 10,000 m<sup>2</sup> (107,642.62 ft<sup>2</sup>).

(c) LOADING SPACE REQUIREMENTS FOR COMMERCIAL USES

The number of loading spaces required on a lot shall be based on the total gross floor area of all the uses on the said lot for which loading spaces are required, in accordance with the following:

- (i) less than or equal to 185 m<sup>2</sup> (1,991.39 ft<sup>2</sup>) of gross floor area - 0 loading spaces
- (ii) over 185 m<sup>2</sup> (1,991.39 ft<sup>2</sup>) up to and including 930 m<sup>2</sup> (10,010.76 ft<sup>2</sup>) of gross floor area - 1 loading space
- (iii) over 930 m<sup>2</sup> (10,010.76 ft<sup>2</sup>) of gross floor area - 2 loading spaces, plus one (1) additional loading space for each 1400 m<sup>2</sup> (15,069.97 ft<sup>2</sup>) of gross floor area or part thereof in excess of 230 m<sup>2</sup> (2,475.78 ft<sup>2</sup>).

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(d) CALCULATION OF LOADING SPACE REQUIREMENTS

When a part of a loading space is required in accordance with this By-law, such part shall be considered 1 loading space for the purpose of calculating total loading space requirements.

(e) DIMENSIONS OF LOADING SPACES

A loading space required hereby shall have minimum dimensions of 3.5 m (11.48 ft) by 9 m (29.53 ft) and a minimum vertical clearance of 4 m (13.12 ft).

(f) LOCATION OF LOADING SPACES

The required loading spaces shall be provided on the same lot occupied by the building or structure for which the said loading spaces are required, and shall not form a part of any street or lane.

(g) YARDS WHERE PERMITTED

Loading spaces shall be permitted in any yard other than a required front yard or a required exterior side yard, provided that:

- (i) no part of any loading space shall be located closer than 2.5 m (8.20 ft) to any street line; and
- (ii) no part of any loading space shall be located closer than 1 m (3.28 ft) to any interior side lot line or rear lot line.

(h) ACCESS TO LOADING SPACES

Access to loading spaces shall be by means of a driveway at least 3.5 m (11.48 ft) in width in commercial zones and at least 6.0 m (19.69 ft) wide in industrial zones, and contained within the lot on which the loading spaces are located and leading to either an improved street or a lane not less than 7.5 m (24.61 ft) in width.

(i) ADDITION TO EXISTING USE

When a building or structure has insufficient loading spaces on the date of passing of this By-law to comply with the requirements herein, this By-law shall not be interpreted to require that the deficiency be made up prior to the construction of any addition provided, however, that any additional loading spaces required by this By-law for such addition are provided in accordance with all provisions hereof respecting loading spaces.

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#### (j) 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. They shall, before being used, be constructed of crushed stone, slag, gravel, crushed brick (or tile), cinders, asphalt, concrete, or Portland cement binder, for a combined depth of at least 0.15 m (.49 ft) and with provisions for drainage facilities.

### 6.10 LOT REQUIREMENTS

#### (a) DWELLINGS

Only one dwelling shall be permitted on a single lot except in the case of block townhouse dwellings and apartment dwellings.

#### (b) OTHER USES

Except as otherwise provided in this By-law, no building or structure shall be erected, altered, extended or enlarged except upon a lot, nor shall any land be used for any permitted use unless it comprises a lot; but this provision shall not prevent the use of any parcel or tract of land for agricultural purposes excluding the erection or enlargement of any building or structure except a fence.

### 6.11 LOT AREA REDUCTION

#### (a) PROHIBITION

No person shall reduce the lot area, or make any changes in the dimensions of a lot as required by this By-law by the conveyance or alienation of any portion thereof or otherwise, except in accordance with the *Planning Act* except by a conveyance in accordance with Clause (b) of this subsection, so that any building or structure on such lot shall have a lot coverage that exceeds, or a front yard depth, side yard depth, rear yard depth, lot frontage, lot area or lot depth that is less than permitted by this By-law.

#### (b) LOTS REDUCED BY PUBLIC ACQUISITIONS

Where the area of a lot is reduced by means of an acquisition of part of the lot by a public agency for the purpose of providing a public service, and where such acquisition causes the lot to be reduced, or any building or structure existing lawfully on the lot on the date of such acquisition to have a lot area, lot frontage, lot depth, lot coverage, front yard depth, side yard depth or rear yard depth that does not conform to the requirements hereof for the zone in which such lot is located,



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then the lot as reduced shall continue to be used as if no such acquisition had taken place, provided that:

- (i) no change is made in the dimensions or area of the lot as reduced, subsequent to the date of such acquisition, that would increase the extent of the said non-conformity; and
- (ii) no building, structure or addition is erected on the lot as reduced, subsequent to the date of such acquisition, except in accordance with all of the provisions hereof for the zone in which such lot is located.

#### **6.12 LOTS WITH MORE THAN ONE USE OR ZONE**

##### (a) MORE THAN ONE USE:

- (i) Where a lot contains more than one permitted use defined separately herein, other than an accessory use, each such use shall conform to the provisions of this By-law which are applicable to such use in the zone in which the said lot is located as if such use existed independently of any other use.
- (ii) Where standards or provisions pertaining to 2 or more uses on one lot are in conflict, the highest or most restrictive standards or provisions shall prevail.

##### (b) MORE THAN ONE ZONE:

- (i) Where a lot is divided into two or more zones, each such portion of the said lot shall be used in accordance with the provisions of this By-law which are applicable to the zone wherein such portion of the said lot is located.
- (ii) Notwithstanding subsection (i) and subject to subsection (iii) for the purpose of determining required yard setbacks, the provisions of the said zone in which a building or structure is to be erected shall apply.
- (iii) Where one of the zones of the lots is Hazard, the required setback for each of the respective zones shall be the greater of that determined under (i) above or as otherwise required by the Niagara Peninsula Conservation Authority, in accordance with the provisions of the Conservation Authorities Act as amended from time to time.

#### **6.13 MUNICIPAL SERVICES**

No person shall, within any Residential zone or Commercial zone, except as provided for in the Residential Village RV1 zone or Rural Commercial (RC) zone, erect, alter or use any building or structure unless such lot is serviced by a public water supply and sanitary sewer system.

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**6.14 NEW DEVELOPMENT IN OR ADJACENT TO AN AGRICULTURAL A ZONE OR SPECIAL RURAL SR ZONE**

Notwithstanding anything contained in this By-law, no Residential, Commercial, Industrial, Institutional, or Open Space use shall be established after the date of passing of this By-law adjacent to a building or structure used for the raising of any type of livestock, poultry, mink or any other fur bearing animal and conversely no new buildings or structures or the enlargement of an existing building or structure for the raising of any type of livestock, poultry, cattle, mink or other fur bearing animal shall be established adjacent to one of the foregoing non-farm uses, except in accordance with the following setback requirements.

- (a) No non-farm use including a residential use accessory to a permitted adjacent agricultural use shall be established adjacent to buildings or structures used for the raising of any type of livestock, poultry, mink or other fur bearing animals within a distance determined by the application of minimum distance separation formula included herein as part of Schedule "B".

Notwithstanding any of the above, no dwelling on any adjacent lot shall be located within 300 m (984.25 ft) of a livestock or poultry operation, except as a dwelling on a lot existing at the date of passing of this By-law shall only comply with the Minimum Distance Separation requirements.

- (b) No building or structure used for the raising of any type of livestock, poultry, mink or other fur bearing animal shall be enlarged, remodelled or established adjacent to an existing non-farm use within a distance determined by the application of minimum distance separation formula included herein as part of Schedule "B".

**6.15 NON-CONFORMING USES, BUILDINGS, STRUCTURES AND LOTS**

- (a) CONTINUATION OF USE

Any legal non-conforming use which existed at the date of passing of this By-law may continue so long as the use is not abandoned.

- (b) REBUILDING OR REPAIR PERMITTED

Nothing in this By-law shall prevent the rebuilding or repair of an existing building or structure, even though such building or structure or the lot on which such building or structure is located does not conform to one or more provisions of this By-law, provided that the dimensions of the original building or structure are not increased, the use thereof is not altered and the yards appurtenant thereto are not reduced except in accordance with the provisions of this By-law.

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(c) CHANGE OF USE

A use of a lot, building or structure which under the provisions hereof is not permissible within the zone in which such lot, building or structure is located shall not be changed except to a use which is so permissible within such zone.

(d) EXTENSIONS PERMITTED

Nothing in this By-law shall prevent a vertical or horizontal extension or addition from being made to an existing building or structure on a lot, even though such building, structure or lot does not conform to one or more of the provisions of this By-law, provided such extension or addition itself is designed, located, used and otherwise in compliance with the provisions of this By-law, with the exception that no extensions or additions will be permitted in a Hazard Zone.

(e) LOT AREA AND/OR FRONTAGE LESS THAN REQUIRED

Where a registered lot having a lesser lot area or lot frontage than that required herein:

- (i) is the same as in a deed registered on or prior to the date of passing of this By-law; or
- (ii) was subject to a consent approved prior to the date of passing of this By-law, and was subsequently conveyed or is the remnant part of such a lot after such a conveyance and thereafter continuously held in distinct and separate ownership from abutting registered lot; or
- (iii) is located within a registered plan of subdivision that was either registered and not more than 8 years prior to the date of passing hereof, or approved in draft by the Minister of Municipal Affairs or Regional Municipality of Niagara prior to the date of passing hereof and subsequently registered; and
- (iv) complies with all relevant regulations under the ***Public Health Act*** and the ***Environmental Protection Act*** and all relevant requirements of the Health Unit are complied with;
- (v) such parcel has a frontage of 7.6 m (24.93 ft) minimum to a public highway;

then the said registered lot shall be deemed to conform to the requirements of this By-law with respect to lot area or lot frontage and the provisions hereof respecting lot area and lot frontage shall not apply to prevent the use of such registered lot, or the erection, alteration or use of a permitted building or structure thereupon, in accordance with all other provisions hereof, provided that the use of the said

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---

registered lot remains unchanged from that which existed or was clearly intended on the date of passing hereof.

**6.16 PARKING AREA REGULATIONS**

The owners of every building or structure erected or used for any of the purposes hereinafter set forth shall provide and maintain for the sole use of the owner, occupant or other persons entering upon or making use of the said premises from time to time, parking spaces and areas in accordance with the provisions of this subsection, except for:

(i) CENTRAL BUSINESS AREA

Commercial uses within a GC zone, shall either be provided with the required number of parking spaces specified hereunder or shall be exempt from the provision of parking spaces in accordance with an agreement with Council pursuant to the *Planning Act*.

(a) PARKING REQUIREMENTS

<b>TYPE OF USE</b>	<b>MINIMUM PARKING REQUIREMENT</b>
Residential (other than listed herein)	1 parking space in a private garage or carport per dwelling unit
Duplex dwelling, triplex dwelling, fourplex dwelling, converted dwelling	1 parking space per dwelling unit
Block townhouse dwelling	1.5 parking spaces per dwelling unit
Apartment dwelling	1.0 parking space per dwelling unit, plus 1.0 parking space for every two dwelling units or part thereof for visitor parking
Senior Citizen Apartment House	1 parking space per dwelling unit
Boarding house dwelling	1 parking space per dwelling unit plus 1 parking space per 3 guest rooms
Hotel, Motel, Tavern	1 parking space per guest room or suite of a motel; 1 parking space for every 3 guest rooms

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	of a hotel; plus 1 parking space for each 5 persons that can be accommodated at any one time in a restaurant, beverage room or liquor lounge
Hospital, Nursing Home	1 parking space for 2 beds
Church	1 parking space per 5 persons seating capacity
Assembly Hall, Community Centre, Theatre, Auditorium	The greater of: (a) 1 parking space per 5 fixed seats or fraction thereof; or (b) 1 parking space for every 5 persons maximum design capacity
School, Elementary	1.5 parking spaces per classroom
School, Secondary	The greater of: (a) 1 parking space per 5 classroom seats; or (b) 1 parking space per 15 square metres of floor area in the gymnasium; or (c) 1 parking space per 15 square metres of floor area in the auditorium
Undertaking Establishment	1 parking space per 5 persons seating capacity with a minimum of 10 parking spaces
Take-out restaurant or Drive-in restaurant	1 parking space per 50 m <sup>2</sup> (538.21 ft <sup>2</sup> ) of gross floor area
Eating Establishment	1 parking space per 4 persons seating capacity
Office, Public Building	1 parking space per 30 m <sup>2</sup> (322.93 ft <sup>2</sup> ) of gross floor area
Bowling Alley	3 parking spaces per bowling lane
Curling Rink	4 parking spaces per curling sheet
Retail Store (other than a furniture store or factory outlet)	1 parking space per 30 m <sup>2</sup> (322.93 ft <sup>2</sup> ) of gross floor area
Furniture Store, Factory Outlet, Warehouse Showroom	1 parking space per 100 m <sup>2</sup> (1,076.43 ft <sup>2</sup> ) of gross floor area

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Industrial Establishment	1 parking space per 50 m <sup>2</sup> (538.21 ft <sup>2</sup> ) of gross floor area
Shopping Centre (other than an Eating Establishment)	1 parking space per 30 m <sup>2</sup> (322.93 ft <sup>2</sup> ) of gross floor area for the first 2323 m <sup>2</sup> (25,005.38 ft <sup>2</sup> ) and thereafter 1 parking space per 25 m <sup>2</sup> (269.11 ft <sup>2</sup> ) of gross floor area
Uses permitted in this by-law other than those listed in this Table	1 parking space per 30 m <sup>2</sup> (322.93 ft <sup>2</sup> ) of gross floor area

#### (b) CALCULATION OF PARKING REQUIREMENTS

- (i) Where a part of a parking space is required in accordance with this by-law for the use listed in Clause (a) of this subsection, such part shall be considered 1 parking space for the purpose of calculating the total parking requirement for the said use.
- (ii) Where a building, structure or lot accommodates more than one type of use as set out in Clause (a) of this subsection, the total parking space requirements for such building, structure or lot shall be the sum of the requirements for the separate uses thereof, except that in the case of a shopping centre, the parking space requirement for shopping centre shall apply.
- (iii) parking spaces required in accordance with this By-law shall not include any parking spaces used or intended to be used primarily for the storage or parking of vehicles for hire and gain, display or sale.
- (iv) Where the number of parking spaces required in accordance with Clause (a) of this subsection is based upon the seating or other capacity of a building or structure, such capacity shall be deemed to be the same as the maximum capacity for such building or structure permitted by the Ontario Building Code.
- (v) Parking Spaces for the exclusive use of the handicapped shall be provided in accordance with the Town of Pelham Handicap Parking By-law, as amended from time to time.

#### (c) PARKING AREA SURFACE

Each parking area and driveway connecting the parking area with a street shall be maintained with a stable surface which is treated so as to prevent the raising of dust

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or loose particles. They shall, before being used, be constructed of crushed stone, slag, gravel, crushed brick (or tile), cinders, asphalt, concrete, Portland cement binder or like material for a combined depth of at least 0.15 m (0.49 ft) and with provisions for drainage facilities, provided that:

- (i) in the case of a dwelling containing 4 or more dwelling units such parking area and driveway shall be paved with an asphaltic or concrete surface or such other hard surface as may be acceptable to the Town, and be bounded by curbs;
- (ii) in the case of Industrial, Institutional, Public and Commercial Zones, all parking areas and loading areas and their approaches shall have a cement or asphaltic binder or other permanent type of surfacing.

#### (d) INGRESS AND EGRESS

- (i) Ingress and egress, to and from the required parking spaces and areas, shall be provided by means of unobstructed driveways or passageways at least 3.0 m (9.84 ft) wide, where only one-way traffic is permitted, and have a minimum width of 7.5 m (24.61 ft), but not more than 9.0 m (29.53 ft) in perpendicular width where two-way traffic is permitted.
- (ii) The maximum width of any joint ingress and egress driveway ramp measured along the street line shall be 9.0 m (29.53 ft).
- (iii) The minimum distance between a driveway and an intersection of street lines measured along the street line intersected by such driveway shall be 7.5 m (24.61 ft).
- (iv) Except in Residential zones the minimum distance between driveways measured along the street line intersected by such driveways shall be 7.5 m (24.61 ft).
- (v) The minimum angle of intersection between a driveway and a street line shall be 60 degrees.
- (vi) Every lot shall be limited to the following number of driveways:
  - 1. up to the first 30.0 m (98.43 ft) of frontage - not more than 2 driveways; and
  - 2. for each additional 30.0 m (98.43 ft) of frontage - not more than 1 additional driveway.

## OFFICE CONSOLIDATION

### TOWN OF PELHAM ZONING BY-LAW NO. 1136 (1987), as amended

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---

- (vii) Notwithstanding the requirements of items (i) through (vi) above, the ingress and egress requirements of the Region shall apply along all Regional Roads.
- (viii) Nothing in this By-law shall prevent the obstruction of a driveway by a gate, a temporary barrier or similar obstruction used solely to restrict access to the said driveway and designed to be easily raised, swung aside or otherwise opened or removed when necessary to permit passage of a vehicle. On Regional roads all such gates and barriers should be set back from the property line to allow the temporary stopping of a vehicle so that the vehicle while stopped is entirely contained within the property limits and does not overhang the public road allowance.
- (ix) Nothing in this subsection shall apply to prevent the use of a right-of-way as a means of obtaining access to a parking area provided the said right-of-way has been legally established for such purpose.

#### (e) ILLUMINATION

Where parking areas are illuminated, lighting fixtures shall be arranged, designed and installed so that the light is directed downward and deflected away from adjacent lots.

#### (f) MORE THAN ONE USE ON A LOT

When a building or structure accommodates more than one type of use as set out in paragraph (a) of this subsection, the parking space requirement for the whole building shall be the sum of the requirements for the separate parts of the building occupied by the separate types of use.

#### (g) ADDITIONS TO BUILDINGS

The parking area requirements referred to herein shall not apply to any building in existence at the date of passing of this By-law so long as the floor area as it existed at such date is not increased and the building or structure is used for a purpose which does not require more parking spaces, according to paragraph (a) of this subsection, than were required by its use at the date of passing of this By-law. If an addition or change of use is made to a building or structure as it existed at the date of passing of this By-law, then additional parking spaces shall be provided to the number required for such addition or change in use, provided that this paragraph shall not apply to require the establishment of parking spaces and areas for a detached single-family dwelling house which existed at the date of passing of this By-law.



OFFICE CONSOLIDATION

TOWN OF PELHAM ZONING BY-LAW NO. 1136 (1987), as amended

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---

(h) OTHER PARKING REGULATIONS

- (i) Nothing in this By-law shall prevent the erection of a shelter for use solely by parking attendants in any part of a parking area, except within a sight triangle, provided such shelter is not more than 4.5 m (14.76 ft) in height and has a floor area of not more than 5 m<sup>2</sup> (53.82 ft<sup>2</sup>).
- (ii) No motor fuel retail outlet or automobile service station shall be located or maintained on any parking area except where specifically permitted by this By-law.
- (iii) No commercial vehicle as defined in the *Highway Traffic Act*, of greater than one tonne maximum capacity and/or no bus used as a commercial vehicle designed for carrying 10 or more passengers and used for the transportation of persons, shall be parked or stored in a Residential Zone.

(i) PARKING AREA LOCATION ON LOT

Notwithstanding the yard provisions of this By-law to the contrary, uncovered surface parking areas shall be permitted in the required yards as follows:

ZONE	YARD IN WHICH REQUIRED PARKING AREA PERMITTED
Residential (except Apartment dwelling and Boarding House Dwelling)	All yards provided that no part of any parking area, other than a driveway, is located closer than 0.9 m (2.95 ft) to any street line
Apartment Dwelling and Boarding House Dwelling	All yards provided that no part of any parking area, other than a driveway, is located closer than 7.5 m (24.61 ft) to any street line and no closer than 3.0 m (9.84 ft) to any side lot line or rear lot line
Institutional, Commercial, Open Space	All yards provided that no part of any parking area, other than a driveway is located closer than 0.9 m (2.95 ft) to any street line
Industrial	Interior side and rear yards only, except for visitor parking, provided that no part of any parking area, other than a driveway, is located closer than 4.5 m (14.76 ft) to any street line

OFFICE CONSOLIDATION

TOWN OF PELHAM ZONING BY-LAW NO. 1136 (1987), as amended

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---

(j) DIMENSIONS OF PARKING SPACES

A parking space required hereby shall be in accordance with Schedule "C" except:

- (i) where the side of a parking space abuts a wall, a column, a pillar, a tree, a fence, a pole or other obstruction or part thereof which is 0.5 m (1.64 ft) or more in height above the level of the parking space, the minimum width of the said parking space shall be 3 m (9.84 ft); and
- (ii) as otherwise provided in this clause, where a parking space abuts an area of landscaped open space or a pedestrian walkway greater than 1 m (3.28 ft) in width, the minimum width of such parking space shall be 2.4 m (7.87 ft).

(k) LOCATION OF PARKING AREA

All required parking spaces shall be provided on the same lot occupied by the building, structure or use for which the parking spaces are required.

(l) PARKING STRUCTURES

- (i) Where a parking area located in a structure constitutes the main use on a lot, then such structure shall conform to all the zone provisions for the zone in which such lot is located.
- (ii) Where a parking area located in a structure is accessory to a permitted use on a lot, then such structure shall conform to all the provisions for accessory uses set out in Subsection (i) of this section.

(m) UNDERGROUND PARKING AREAS

Nothing in this By-law shall apply to prohibit the location of underground parking areas in any yard, provided that:

- (i) no part of any underground parking area shall be situated above finished grade in any required yard; and
- (ii) no part of any underground parking area shall be located within the limits of a street.

## OFFICE CONSOLIDATION

### TOWN OF PELHAM ZONING BY-LAW NO. 1136 (1987), as amended

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---

## 6.17 PLANTING STRIPS

### (a) REQUIREMENTS FOR NON-RESIDENTIAL USES

Where a lot is used for a non-residential purpose and the interior side or rear lot line, or portion thereof, abuts a Residential zone or an RD zone, then a strip of land adjoining such abutting lot line, or portion thereof, shall be used for no other purpose than a planting strip in accordance with the provisions of this subsection.

### (b) WIDTH

Where land is required to be used for no other purpose than a planting strip, it shall have a minimum width of 3.0 m (9.84 ft) measured perpendicular to the lot line it adjoins.

### (c) DRIVEWAYS OR WALKS

In all cases where ingress and egress driveways or walks extend through a planting strip, it shall be permissible to interrupt the strip within 3.0 m (9.84 ft) of the edge of such driveway or within 1.5 m (4.92 ft) of the edge of such walk.

### (d) LANDSCAPED AREA

A planting strip referred to in this subsection may form part of any landscaped area required by this By-law.

### (e) PLANTING

Planting strips shall be planted with trees to form a visual screen at least 3.0 m (9.84 ft) in height.

## 6.18 PROHIBITED USES

(a) Except as otherwise specifically permitted in this By-law, the following uses are prohibited in any zone:

- (i) blood boiling;
- (ii) bone boiling;
- (iii) refining coal oil;
- (iv) extracting oil from fish or animal matter;
- (v) storing hides;
- (vi) abattoir or commercial slaughterhouse;
- (vii) a piggery wherein pigs are fed treated garbage or other treated refuse;

OFFICE CONSOLIDATION

TOWN OF PELHAM ZONING BY-LAW NO. 1136 (1987), as amended

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- (viii) tallow melting;
  - (ix) soap boiling;
  - (x) tripe boiling;
  - (xi) tanning hides or skins;
  - (xii) manufacturing gas, acids or chemicals;
  - (xiii) manufacturing glue;
  - (xiv) commercial manufacturing of fertilizers from dead animals or from human or animal waste;
  - (xv) a track for the racing of motor vehicles or motorcycles or go-carts or motorized snow vehicles;
  - (xvi) a trailer camp;
  - (xvii) the use of any trailer for permanent human habitation;
  - (xviii) keeping, storing, manufacturing, refining or transporting dangerous inflammable or explosive substances including, but not so as to limit the generality of the foregoing, dynamite, dualin or naphtha, but not including gasoline, diesel fuel, heating and lubricating oil, propane, acetylene and lime;
  - (xix) a junk yard, salvage yard, automobile wrecking yard, or the collection, storage or sale of junk, salvage, partially or completely dismantled motor vehicle or trailers or parts of motor vehicles or trailers;
  - (xx) locating or storing on any land for any purpose whatsoever any disused railroad car, streetcar body, truck body, or trailer without wheels, whether or not the same is situated on a foundation;
  - (xxi) keeping or raising of any bull, ox, cow, sheep, horse, goat, pig or other cattle, or any poultry, or any reptile or any wild animal including any tamed or domesticated wild animal, on any residential lot or in any building or structure on such lot, or on any lot or in any building or structure in a Residential or Residential Development zone;
  - (xii) arcades and billiard parlours;
  - (xiii) adult entertainment parlours.
- (b) In addition to the uses prohibited in Clause (a) of this subsection, any use which, from its nature or the materials used therein or emissions issuing therefrom, is declared under the **Public Health Act**, R.S.O. 1980, as amended from time to time, or any regulations adopted thereunder to be a noxious trade, business or manufacture is prohibited.
- (c) In addition to the uses prohibited in Clause (a) of this subsection, all uses of land and the erection or use of any building or structure for a purpose not permitted under the "permitted use" subsection of one or more zones established by this By-law are and shall be deemed to be prohibited in each such zone, except for those uses of land and the erection or use of any building or structure for a purpose expressly permitted under the applicable provisions of Section 6 hereof.

OFFICE CONSOLIDATION

TOWN OF PELHAM ZONING BY-LAW NO. 1136 (1987), as amended

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---

**6.19 OBNOXIOUS USES**

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

- (a) by the creation of noise or vibration; or
- (b) by reason of the emission of gas, fumes, smoke, dust, or objectionable odour; 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 describe in Clauses (a), (b) and (c) of this subsection.

**6.20 PUBLIC SERVICES**

- (a) Except as otherwise provided in paragraph (c) of this subsection, the provisions of this By-law shall not apply to the use of any lot or the erection or use of any building or structure for purposes of the public services by the Corporation or the Region or by any local board of either the Corporation or the Region as defined by the *Municipal Act*, any telephone or telegraph corporation, any natural gas distribution system operated by the Corporation or on its behalf by a company distributing gas to the residents of the Corporation and possessing all the necessary powers, rights, licenses and franchise, any Conservation Authority established by the Government of Ontario, any department of the Government of Ontario or Canada including Ontario Hydro and Pelham Hydro, any use permitted under the *Railway Act* or any other statute of Ontario or Canada governing railway operations including tracks, spurs and other railway facilities provided that:
  - (i) no goods, materials or equipment shall be stored in the open, except as permitted in such zones;
  - (ii) any above-ground non-recreational use carried on under the authority of this paragraph in any Residential zone shall be enclosed in a building designed, located and maintained in general harmony with residential buildings of the type permitted in such zone.

## OFFICE CONSOLIDATION

### TOWN OF PELHAM ZONING BY-LAW NO. 1136 (1987), as amended

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---

#### (b) STREETS AND INSTALLATIONS

Nothing in this By-law shall prevent land to be used as a street or prevent the installation of a watermain, sanitary sewer main, storm sewer main, gas main, pipe line, cable t.v. cable, street sign or overhead or underground hydro or telephone line, provided that the location of such main or line has been approved by the Corporation.

#### (c) EXCEPTIONS

(i) Where in this By-law, under the heading of "USES PERMITTED", a use is specifically permitted in a zone, which use without such reference thereto would be permitted in any zone pursuant to the provisions of paragraph (a) of this subsection, then such use shall be permitted only within the zone or zones making reference thereto and the said paragraph (a) shall not apply to such use.

(ii) Notwithstanding the provisions of Subsection (a) and (c)(i) above, offices, maintenance/repair yards and institutional uses for public service agencies are not permitted in any zone unless specifically named in that section.

**OMB Order Sept. 20/90**

#### **6.21 RAILWAY RIGHT OF WAY**

Notwithstanding other provisions within this By-law to the contrary, no residential dwelling shall be constructed any closer than 23 m (75.46 ft) to any functioning railway right-of-way.

#### **6.22 REDUCTION OF REQUIREMENTS**

No person shall change the purpose for which any lot, building or structure is used or erect any new building or structure or addition to any existing building or structure or sever any lands from any existing lot if the effect of such action is to cause the original, adjoining, remaining or new building, structure or lot to be in contravention of this By-law.

#### **6.23 REMOVAL OF GRAVEL**

Nothing in this By-law shall prevent an owner from removing gravel from his land for his own use on the property from which the gravel is removed.

OFFICE CONSOLIDATION

TOWN OF PELHAM ZONING BY-LAW NO. 1136 (1987), as amended

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---

**6.24 REPLACEMENT OF BUILDINGS OTHER THAN RESIDENTIAL BUILDINGS**

Any building, other than a building used exclusively for residential purposes may, in the case of its complete destruction, be replaced with a new building where the complete destruction is caused by fire, lightning, explosion, tempest, flood or Act of God, or where its demolition is by order of the Corporation, the Regional Niagara Health Services Department or other authority, for safety, health or sanitation requirements, provided that:

- (a) such destroyed or demolished building was in conformance with this By-law at the date of its complete destruction or its demolition; or
- (b) for buildings not in conformance with this By-law, the ground floor area and gross floor area of such building as replaced does not exceed that existing at the date of its complete destruction or its demolition.

**6.25 REPLACEMENT OF RESIDENTIAL BUILDINGS**

Any building used exclusively for residential purposes may, in the case of its complete destruction, be replaced with a new building or in the case of its partial destruction, be reconstructed where the complete or partial destruction, as the case may be, is caused by fire, lightning, explosion, tempest, flood or Act of God, or where its demolition is by order of the Corporation, the Regional Niagara Health Services Department or other authority, for safety, health or sanitation requirements, provided that:

- (a) such destroyed or demolished building was lawfully used at the date of its partial or complete destruction or its demolition;
- (b) such building as replaced or reconstructed shall not contain a greater number of dwelling units than lawfully existed in the destroyed or demolished building at the date of its partial or complete destruction or demolition;
- (c) where the ground floor area of the destroyed or demolished building was less than the minimum ground floor area permitted in the applicable zone under this By-law, such building, as replaced or reconstructed, shall not contain a lesser floor area than lawfully existed in the destroyed or demolished building at the date of its partial or complete destruction or demolition;
- (d) where any yard existing at the date of the partial or complete destruction or demolition of such building does not comply with the minimum yard required in the applicable zone under this By-law, then such yard shall not be less than the yard existing at the date of the partial or complete destruction or demolition of such building;

## OFFICE CONSOLIDATION

### TOWN OF PELHAM ZONING BY-LAW NO. 1136 (1987), as amended

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- (e) the height of such building, as replaced or reconstructed, shall not exceed the maximum height permitted in the applicable zone under this By-law;
- (f) notwithstanding subsections (a), (b), (c), (d) and (e) above, where the building is destroyed by flood, the Niagara Peninsula Conservation Authority shall apply.

#### **6.26 RECONSTRUCTION OF AGRICULTURAL BUILDINGS AND STRUCTURES**

Nothing in this By-law shall apply to prevent the reconstruction of any legal non-conforming or conforming agricultural building or structure situated in the Agricultural or Special Rural zones 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, the Regional Niagara Health Services Department or other authority for safety, health or sanitation requirements, provided that:

- (a) such building or structure, as replaced or reconstructed, shall not have in total a greater livestock housing capacity than lawfully existed in the destroyed or demolished building or structure at the date of its partial or complete destruction or demolition; and
- (b) where any yard existing at the date of the partial or complete destruction or demolition of such building or structure does not comply with the minimum yard or minimum setback required in the Agricultural zone, such yard shall not be reduced in sized by reason of such reconstruction of such building or structure; or
- (c) if such building or structure is to be replaced or reconstructed so that it provides a greater livestock housing capacity than lawfully existed in the destroy or demolished building or structure at the date of its partial or complete destruction or demolition, such building or structure shall not be replaced or reconstructed except in accordance with the provisions of the Agricultural A zone and Special Rural SR zone.
- (d) For the purpose of this subsection "livestock housing capacity" means the number of animal units per year in accordance with Schedule "B" hereof.

#### **6.27 DAYLIGHTING TRIANGLES**

On a corner lot within the Daylighting Triangle, no sign, fence, landscaping, building or structure shall be greater than 0.5 m (1.64 ft) in height above the elevation of the ground at the street line, regardless of whether or not any such landscaping materials form part of a required planting strip.



## OFFICE CONSOLIDATION

### TOWN OF PELHAM ZONING BY-LAW NO. 1136 (1987), as amended

*(This Office Consolidation Edition is prepared for purposes of convenience only.*

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---

Where the two street lines do not intersect at a point, the point of intersection of the street lines shall be deemed to be the intersection of the projection of the street lines or the intersection of the tangents to the street lines.

#### **6.28 SIGNS - deleted as per By-law No. 1609 (1993)**

#### **6.29 SPECIAL EXCEPTIONS**

The special exceptions noted in Section 30 shall have effect in respect of the subject use and the provisions of the respective zone shall be amended insofar as required to give effect to the special provisions. All other provisions of the respective zone shall apply, with the necessary changes being made, to the subject use.

#### **6.30 SPECIAL USES PERMITTED**

- (a) The following uses are permitted in all zones within the Corporation: A tool shed, scaffold or other building or structure incidental to construction on the lot where it is situated and only for so long as it is necessary for the work in progress and which shall be removed within 6 weeks of the work being completed or abandoned.
- (b) "abandoned" in this subsection shall mean the failure to proceed expeditiously with the construction of a work.

#### **6.31 TEMPORARY USES**

- (a) Nothing in this By-law shall prevent the use of any land, or the erection or use of any temporary building or structure for a construction camp, work camp, tool shed, scaffold or other temporary building or structure incidental to and necessary for construction work on the premises for which a building permit has been issued and not expired, but only for so long as such use, building or structure is necessary for such construction work which has not been finished or abandoned.
- (b) Nothing shall prevent the use of a mobile home, motor home or tourist trailer for the temporary accommodation of the farm family in the case of complete or partial destruction of the farm dwelling by fire, lightning, explosion, tempest, flood or Act of God, or where its demolition is by order of the Corporation of the Town of Pelham, the Regional Niagara Health Services Department or other authority, for safety, health or sanitation requirement in an Agricultural A zone or Special Rural SR zone for a period of time not to exceed 18 months.
- (c) Nothing shall prevent the use of land, or the erection of a real estate sales pavilion or the placement of a mobile home to be used as a real estate sales pavilion on a temporary basis either located within or not more than 300 m (984.25 ft) from a

OFFICE CONSOLIDATION

TOWN OF PELHAM ZONING BY-LAW NO. 1136 (1987), as amended

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---

developing subdivision and which use shall be removed when all lots have been sold.

**6.32 THROUGH LOTS**

Where a lot which is not a corner lot has frontage on more than one street, such lot shall have a front yard on each street in accordance with the provisions of the zone or zones in which each front yard is located.

**6.33 TOURIST TRAILERS, MOBILE HOMES & MOTOR HOMES**

(a) ALL ZONES

No person shall in any zone, locate or use any tourist trailer, mobile home or motor home on any lot for living, sleeping or eating accommodation.

(b) EXCEPTIONS

Notwithstanding the provision of paragraph (a) hereof, a lot may be used for a tourist trailer or motor home for living, sleeping or eating accommodation:

- (i) where the lot is used as a camping area in a public park, but which tourist trailer or motor home shall not be occupied for any period of time beyond 8 months;
- (ii) where the lot is in an Industrial zone and the tourist trailer or motor home is used by a caretaker or watchman employed on the lot and provided not more than one such tourist trailer or motor home is located on a lot; or
- (iii) where such use is specifically permitted elsewhere in this By-law.

**6.34 STORAGE OF RECREATIONAL VEHICLES, TRAILERS AND BOATS**

In any Residential zone, except "Residential Village 1 - RV1" and "Residential Village 2 - RV2", no person shall store a recreational vehicle, mobile home, house trailer, motor home, tourist trailer, camper trailer, boat and trailer, or haulage trailer, except in accordance with the following provisions:

- (a) where the lot is used for an apartment dwelling or boarding house, the storage of such vehicles shall be enclosed and shall only be permitted in spaces or areas that are in addition to the number of parking spaces required in Section 6.16;
- (b) where the lot is used for any other residential use, the storage of such vehicles shall be permitted in any yard provided that where storage occurs in a front yard or

## OFFICE CONSOLIDATION

### TOWN OF PELHAM ZONING BY-LAW NO. 1136 (1987), as amended

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---

exterior side yard, a minimum setback of 1.5 m (4.92 ft) from the front lot line or exterior side lot line shall be required for sight clearance purposes.

#### **6.35 YARD ENCROACHMENTS PERMITTED**

##### **(a) ORNAMENTAL STRUCTURES**

Notwithstanding the yard provisions of this By-law to the contrary, sills, bay windows and bow windows, belt courses, chimneys, cornices, eaves, gutters, parapets, pilasters or other ornamental structures may project into any required yard a maximum distance of 0.75 m (2.46 ft).

##### **(b) ACCESSORY STRUCTURES**

Notwithstanding the yard provisions of this By-law to the contrary, drop awnings, clothes poles, flag poles, garden trellises, fences, retaining walls, signs or similar accessory uses shall be permitted in any required yard.

##### **(c) UNENCLOSED PORCHES, BALCONIES, STEPS AND PATIOS**

Notwithstanding the yard provisions of this By-law to the contrary, unenclosed porches, balconies, steps and patios, covered or uncovered may project into any required yard a maximum distance of 1.5 m (4.92 ft) provided that, in the case of porches, steps or patios, such uses are not more than 1.3 m (4.27 ft) above ground. Patios may project into any required rear yard provided they are not more than 0.6 m (1.97 ft) above grade.

##### **(d) FIRE ESCAPES**

Notwithstanding the yard provisions of this By-law to the contrary, unenclosed fire escapes, in which the stair steps and floors are latticed in such a manner that the proportions of voids to solids is not less than 2 to 1 and in which guards consist only of hand rails and the structural members necessary to their support, may project into any required yard a maximum distance of 1.5 m (4.92 ft).

##### **(e) RAILWAY SPUR**

Notwithstanding the yard provision of this By-law to the contrary, a railway spur shall be permitted within any required yard.

##### **(f) GATE HOUSE**

Notwithstanding the yard provisions of this By-law to the contrary, in a commercial or Industrial zone, a gate house shall be permitted in any yard.

## OFFICE CONSOLIDATION

### TOWN OF PELHAM ZONING BY-LAW NO. 1136 (1987), as amended

*(This Office Consolidation Edition is prepared for purposes of convenience only.*

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---

#### (g) CANOPIES OVER ENTRANCES

Notwithstanding the yard provisions of this By-law to the contrary, canopies over front and rear entrances may project into a front or rear yard a maximum distance of 3.0 m (9.84 ft).

#### (h) OPERATING MACHINERY

Notwithstanding the yard provisions of this By-law to the contrary, operating machinery, not including air conditioners in a residential zone, shall:

- (i) be permitted to encroach into any side yard adjacent to a street or rear yard of any lot used for residential purposes;
- (ii) where permitted on any lot under (i) above, the exhaust or intake shall not be directed towards any side yard if such side yard abuts another parcel of land used for residential purposes;
- (iii) where permitted under (i) above, shall not be located less than 5 m (16.40 ft) from an existing residential use under separate ownership;
- (iv) be permitted to encroach into any side yard, provided that the said operating equipment shall not be located less than 5 m (16.40 ft) from any lot line.

#### (i) AIR CONDITIONERS IN A RESIDENTIAL ZONE

Notwithstanding the yard provisions of this By-law to contrary, air conditioners shall:

- (i) be permitted to encroach into a front yard to a maximum of 2 m (6.56 ft) from the main wall of the main building or may encroach into any side yard provided that the air conditioner is setback a minimum distance of 0.3 m (0.98 ft) from any side lot line.

### **6.36 NIAGARA ESCARPMENT COMMISSION JURISDICTION**

This By-law shall have no effect within the Niagara Escarpment Commission Development Control Area as defined by Provincial regulation.

### **6.37 WAYSIDE PITS AND QUARRIES**

Wayside pits and quarries shall be permitted in the following zones: Agricultural-A, Special Rural-SR, Extractive Industrial-M3 and Open Space-OS.

OFFICE CONSOLIDATION

TOWN OF PELHAM ZONING BY-LAW NO. 1136 (1987), as amended

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---

**6.38 REFRESHMENT VEHICLES (Amending By-law No. 1817(1996))**

Nothing in this By-law shall prevent the temporary use of land for the following uses:

- (a) The use of any land for a refreshment cart or cycle as licensed and regulated by the Corporation;
- (b) The use of any land for a refreshment cart or cycle as licensed and regulated by the Corporation for a special occasion;
- (c) The use of the following commercially zoned lands for the seasonal placement of a refreshment vehicle as licensed and regulated by the Corporation and subject to the provision of the pertinent zone, except as noted herein:

- (i) Commercial Rural (CR) Zone:

Part of Lots 15 and 16, Concession 7 and 8, located at Highway 20 West and Maple Street.

Part of Lots 13 and 14, Concession 8, located at Highway 20 West and Balfour Street.

- (ii) Highway Commercial (HC) zone:

Part of Lots 160, 161, 162, 166 and 167 located on the north and south side of Highway 20 East.

Notwithstanding the provisions of Section 2(d) of By-law 1261 (1989) a minimum front yard of 13.7 m (44.95 ft) is required.

- (iii) General Commercial (GC) Zone:

Part of Lot 3, Concession 7, located on the north side of Highway 20 West

Part of Lot 3, Concession 8, located on the south side of Highway 20 West

Part of Lot 168, except those lands which are located within the Central Business Area as defined in Section 20.3 of this By-law