



**VILLAGE OF PORT ELGIN
ZONING BY-LAW
BY-LAW NO. 01-43**



Village of Port Elgin Zoning By-law

By-law No. 01-43

Prepared by the Tantramar Planning District Commission

BY-LAW TO ADOPT A ZONING BY-LAW

BY-LAW NO. 01-43

Under the authority vested in it by Section 34 of the *Community Planning Act*, the Municipal Council of the Village of Port Elgin, enacts as follows:

1. This By-law may be cited as the "Village of Port Elgin Zoning By-law";
2. The document entitled "Village of Port Elgin Zoning By-law" attached hereto is adopted;
3. By-law No. 93-43 entitled "Village of Port Elgin Zoning By-law", enacted on the 12th day of July 1993, is repealed together with all amendments.

First Reading: November 13, 2001

Second reading: November 13, 2001

Third Reading:
and enactment March 11, 2002

Robert A. Hall
Mayor

Sonia M. Wells
Clerk

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PART 1 - TITLE AND DEFINITIONS

This By-law shall be cited as the "*Village of Port Elgin Zoning By-law*".

1.1 Definitions

In this By-law all words shall have the meaning or meanings which are assigned to them in accepted English dictionaries except for the words which are defined as follows:

ABUT, means where properties or lots share a common lot line or a common point along a lot line;

ACT, means the New Brunswick "*Community Planning Act*";

AGRICULTURAL USE, means general farming and, without limiting the generality of the foregoing, shall include uses such as the general cultivation of land and associated production, conditioning, processing and storing of field crops, vegetables, fruit, nursery stock, pasturing of livestock and the selling of such produce on the premise and includes a farm dwelling, accessory buildings and uses. Such uses do not include a cannery or abattoir or the raising of fur bearing animals;

ALTER, means to make any change, structural or otherwise, in a building or structure which is not for purposes of maintenance only;

AMENITY AREA, means an outdoor site developed for passive and recreation areas in conjunction with a multi-unit residential development;

BUFFER, means a spatial separation or setback between a defined use and a property line;

BUILDING, means a type of structure, whether permanent or temporary which is roofed and which is used for shelter or accommodation of persons, animals, materials or equipment;

BUILDING, ACCESSORY, means a detached subordinate building, not used for human habitation, except where permitted in the zoning by-law, located on the same lot as the main building, structure or use to which it is accessory, the use of which is naturally or customarily incidental and complementary to the main use of the land, building or structure;

BUILDING / HOME CONVERSION, means an existing main building or a portion of a main building in which the proprietor/lessee is changing the use to a conditional use permitted under the Village of Port Elgin Zoning By-law.

BUILDING INSPECTOR, means a person appointed under paragraph 6 of the Provincial Building Regulation - "*Community Planning Act*" of New Brunswick;

BUILDING, MAIN, means a building in which the main or principal use of the lot is conducted ;

COUNCIL, means the Council for the Village of Port Elgin;

DEVELOPMENT, means the erecting, placing, relocating, removing, demolishing, altering, repairing, or replacing of a building or structure other than utility poles and wires, traffic control devices or statutory notices;

DWELLING, means a building or portion thereof containing one or more dwelling units and does not include a mobile home/mini home or motor home, travel trailer or recreational vehicle designed for seasonal and non-permanent occupation;

DWELLING, MULTIPLE, means a building or portion thereof, other than a hotel or motel designed or occupied as dwelling units for more than two households;

DWELLING, UNIT, means a room or suite of two or more rooms designed or intended for use by an individual or household in which a kitchen, sleeping and sanitary facilities are provided for the exclusive use of such individual or household;

ERECT, means to construct, build, assemble or relocate a building or structure, and includes any physical operations preparatory thereto;

EXTRACTIVE USE, means all buildings, aggregate plants, material storage areas, associated with the excavation of rock, borrow material, soil for commercial sale or use.

FLOOR AREA, means the total usable floor area within a building;

GRADE, means the finished level of the ground at the exterior walls of the building or structure;

HEIGHT, means, in relation to a building or structure, the vertical distance as measured from mean grade to the highest point on such building or structure;

HOME, NURSING, means a building in which the proprietor supplies for hire or gain, lodging with or without meals and, in addition provides nursing, medical, or similar care and treatment;

HOME OCCUPATION, means a business activity carried on within a residence or accessory building of the owner or operator of the business. Without limiting the generality of the foregoing, a home occupation may include: office use, personal service shop, craft workshop, the repair of minor household appliances, catering, daycare center with a maximum of 6 children, an establishment teaching arts. Home occupations do not include the sale, rental, or repair of automobiles or recreational vehicles;

HOMES, BED AND BREAKFAST, means a dwelling in which room and breakfast are provided to lodgers for compensation;

HOUSE, BOARDING, means a dwelling in which the proprietor supplies room and board for monetary gain which would consist of 6 bedrooms or more inclusive to the lessee or owner thereof or members of his family;

HOUSEHOLD PET, means a domestic animal customarily kept within a dwelling or in an outside pen or accessory building for the sole purpose of pleasure rather than utility, and includes dogs, cats and rabbits, rodents and small birds and other animals, but excludes cattle, sheep, horses, pigs, poultry, bees, goats and other animals normally raised on farms and exotic animals normally kept in zoos including snakes, lions and llamas;

INN, means a dwelling that provides accommodations for financial remuneration and shall have a dining facility;

LOT, means any parcel of land which is contained as a separate lot description in a deed of land or as shown approved lot on an approved plan of subdivision filed in the Registry of Deeds;

LOT, CORNER, means a lot having two or more adjacent sides fronting on two or more intersecting or intercepting streets;

LOT, THROUGH, means a lot other than a corner lot which has a front yard on each of two streets;

LOT LINE, means the boundary or exterior line of a lot;

LOT LINE, FRONT OR FLANKAGE, means the line dividing the lot from the street and;

- a) in the case of a through lot, both of the boundaries facing the street shall be deemed to be front lot lines;

LOT FRONTAGE, means the horizontal distance between the side lot lines measured along the front lot line required in the zone in which the lot is located;

LOT LINE, SIDE, means a lot line extending from the street line to the rear of the lot;

LOT LINE, REAR, means a lot line furthest from or opposite to the front lot line;

MOBILE HOME/MINI HOME, means a dwelling unit that is designed to be transported from its place of construction to a home site and/ or having a width of 5 m (16 ft) or less and located on the site on wheels, jacks or similar supports or on a permanent foundation;

MOBILE HOME/MINI HOME PARK, means a parcel of land, upon which two or more mobile homes/mini homes are located for residential purposes;

MOTOR VEHICLE REPAIR GARAGE, means a building or structure where the exclusive service performed or executed on motor vehicles for compensation shall involve general maintenance and repair not including the dispensing of gasoline or/and propane;

OPEN STORAGE, means storage not in a building or covered area and includes materials covered by a canvas, plastic or any other type of covering material;

PLANNING COMMISSION, means the Tantramar Planning District Commission;

PUBLIC UTILITY, means any building, structure, plant or equipment essential to the provision and operation of electricity, water, sewage disposal, telephone service, telegraph service, pipeline, railway telecommunications or cable television;

RECYCLING DEPOT, means a building, structure or land for the deposit, storage, compacting, baling, and transportation of recyclable materials limited to paper, cardboard, glass, metal cans and plastic;

RESTAURANT, FULL SERVICE: means a building where food is prepared and served for public for consumption within the building and does not include a drive in or takeout restaurant but could include a catering service;

RECREATION, means where entertainment is offered such as motion pictures or theater, public hall, billiard or pool rooms, electronic games, bowling alley, ice/ roller skating, roller blades, sports fields, playgrounds and all other similar places of amusement;

SERVICE INDUSTRY, means a use whose primary function is to provide services such as maintenance, and without limiting the generality of the forgoing may include an engine and body repair shop, a printing business, a laundry or cleaning business, a wholesale bakery, professional trades, a truck depot and similar uses;

SERVICE SHOP, PERSONAL, means a building used for the repair of household articles or small motor repair and may include radio, television, computers, and appliance repair shops, plumbing, and electrical establishments other similar uses but does not include industrial manufacturing or motor vehicle and small engine repair shops;

SHOPPING CENTER, means land, planned and controlled as a unit, containing such retail stores, service shops and other establishments as permitted by this By-law, in a building or buildings;

SIGN, means any display or advertisement, placard, boarding, billboard or other form or means of device whatsoever of public notice or announcement, whether erected, posted or painted and any such form or means or device intended, suitable or adaptable for such purpose whether or not it is at the time used for such purpose. The word sign shall not include signs or advertisements which are affixed to the inside of windows and glass doors;

SIGN, FREE STANDING A sign supported by one or more upright poles, columns, or braces placed in or on the ground and not attached to any building or structure.

SIGN, GENERAL ADVERTISING A sign which displays the names of a shopping center, group of buildings, or a listing of the names of these businesses.

SIGN, HOME OCCUPATION A sign containing only the name and occupation of a permitted home occupation.

SIGN, PORTABLE Any sign designed to be transported from one display location to another, including but not limited to:

- a) signs designed to be transported by trailer or wheels,
- b) signs with chassis or support constructed without wheels,
- c) signs with wheels removed, and
- d) shall include any sign, which has been attached temporarily or permanently to the ground by more than two uprights.

SIGN, WALL A sign painted on the outside of a building, or attached to, and erected parallel to the face of a building and supported throughout its length by such building but not be painted upon or covering a fence or roof.

SPECIAL CARE, means a building or place or part of a building in which accommodation and nursing, supervisory and/or personal care is provided, or is made available for more than three persons with social, health, legal, emotional, mental or physical disabilities or problems, and includes such facilities as are licensed by the Homes for Special Care Act, the Children's Service Act, or by any other provincial legislation, but does not include any public or private hospital or sanitarium, or a jail, prison or reformatory, or a hostel;

STOREY, means that portion of a building included between the surface of any floor and the surface of the floor, ceiling or roof structure next above it;

STREET LINE, means the common line between a street and a lot;

STRUCTURE, means a combination of materials which forms a construction that is intended to be safe and stable. For the purpose of this By-law a utility pole shall be deemed not to be a structure;

SWIMMING POOL, means a tank or body of water, other than an existing natural body of water or stream, either above or below ground, which has a depth greater than 91 cm (36 in) intended to be used for diving, swimming, or wading;

USE, means the purpose for which any land building or structure is utilized, occupied, maintained or leased;

USE, ACCESSORY, means a use, other than human habitation of land or a building or structure which is naturally or customarily incidental and complementary to the main use of land, building or structure which is located on the same lot of the main use and which is not a secondary use;

YARD, means that part of a lot required to be unoccupied by the main building or structure;

YARD, FRONT, means the yard extending across the full width of the lot between the street line and the nearest main wall of any building or structure;

YARD, REAR, means the yard extending across the full width of the lot between the rear lot line and the nearest main wall of any building or structure;

YARD, SIDE, means the yard extending from the front yard to the rear yard on either side, between a side lot line and the nearest main wall of any building or structure.

PART 2 - ADMINISTRATION

2.1 Purpose

The purpose of this By-law enacted under the provision of Section 34 of the "*Community Planning Act*" is to prohibit, regulate and control the use and development of lands and buildings within the Village of Port Elgin to facilitate the orderly and economic development of land in accord with the policies set forward in the "*Village of Port Elgin Municipal Plan*" and includes the following:

- a) divides the Municipality into zones;
- b) prescribes, subject to powers reserved in the Planning Commission:
 - i) the purposes for which land, buildings and structures in any zones may be used,
 - ii) standards to which land use and, the placement, erection, alteration and use of buildings and structures must conform;
- c) prohibits the use, placement, erection or alteration of land, buildings or structures other than in conformity with the purposes and standards mentioned in clause (b).

2.2 Scope

- a) No building or structure shall be erected, or altered (including demolition), unless a building permit has been issued and no building permit shall be issued unless all the provisions of this By-law are satisfied.
- b) Nothing in this By-law shall exempt any person from complying with the requirements of the "*Building By-law*", "*Subdivision By-law*", or any other By-law in force within the Municipality or to obtain any license, permission, permit authority or approval required by this or any other By-law of the Municipality, or other lawful authority.
- c) Where the provisions of this By-law conflict with those of any other municipal or provincial regulations, By-laws or codes including regulations pertaining to on-site sewage disposal systems, the higher or more stringent requirements shall prevail.
- d) Where there is a conflict between a Municipal Plan and a Zoning or Subdivision By-law, the Municipal Plan prevails.

2.3 Powers of the Council

- a) No building may be erected in the Municipality in respect of which, in the opinion of the Council, satisfactory arrangements have not been made for the supply of electrical power, water, sewerage, streets and other services and facilities.
- b) Where, in its opinion, a building or structure is dilapidated, dangerous or unsightly, the Council may:
 - i) require the improvement, removal or demolition of such building or structure at the expense of the owner;
 - ii) acquire the parcel of land on which such building or structure is located.
- c) Subject to subsection 2.2 (a), Council may, within any zone,
 - i) designate the land to be used for the location or erection of any public utility development including but not limited to the supply of electricity, water, sanitary and storm drainage, and the disposal of sanitary wastes, and;
 - ii) use the land so designated for a purpose mentioned in clause (i).
- d) No land may be designated or used for the purposes mentioned in subsection (c) unless, in the opinion of the Council,
 - i) such land is essential to the operation of the service concerned;
 - ii) any development thereon in a residential zone is adequately buffered from public view.

2.4 Special Powers of the Planning Commission

- a) No building or structure may be placed, erected or altered on any site where it would otherwise be permitted under this By-law when, in the opinion of the Planning Commission, the site is marshy, subject to flooding, excessively steep or otherwise unsuitable by virtue of its soil or topography.

- b) The Planning Commission may, subject to such terms and conditions as it considers fit,
 - i) authorize, for a temporary period not exceeding one year, a development otherwise prohibited by this By-law; and
 - ii) require the termination or removal of a development authorized under clause (i) at the end of the authorized period.

2.5 Amendments

- a) A person who seeks to have this By-law amended shall:
 - i) address a written and signed application form to the Commission ; and
 - ii) pay a fee to the Commission, not exceeding the maximum fee set in accordance with the Provincial regulations pursuant to the "*Community Planning Act*" of New Brunswick.
 - iii) pay the cost of registering any related amendments or agreement related to the application.
- b) An application under this section shall include such information as may be required by the Council or the Commission for the purposes of adequately assessing the desirability of the proposal.
- c) Before giving its views to the Council with respect to an application under this section, the Commission may carry out such investigation as it deems necessary.
- d) Unless, upon the advice of the Commission, the Council is of the opinion there is valid new evidence or a change in conditions, where an application under this section has been refused by the Council, no further application may be considered by the Council for one year from the date of refusal.

PART 3 - GENERAL PROVISIONS FOR ALL ZONES

3.1 Vehicular Access and Zones

Vehicular access from a public street to any building or use located in any zone shall be through the same zone in which the building or use is located.

3.2 Vehicular Access in Mixed and Institutional Zones

- a) Accesses from a commercial lot shall be located at least 15.2 m (50 ft) from the nearest street intersection.
- b) A barrier consisting of a curb, barrier or ditch designed to prevent vehicular access shall be provided.

3.3 Frontage on Streets

No building permit shall be issued unless the lot intended for development fronts on a public street, unless otherwise specifically provided for in a particular zone. This provision does not apply to public utility facilities where a maximum of one access shall be provided to the lot, the access having a minimum width of 7.6 m (25 ft).

3.4 Height Restrictions

The maximum height of buildings and structures as provided for in particular zones in this By-law, unless otherwise indicated, shall not apply to church spires, water tanks, towers, flagpoles, television or radio antennae, ventilators, chimneys, utilities or clock towers.

3.5 Vehicle Bodies

No automobile, truck, bus, coach or street car body shall be used for habitation by humans or animals within the Village of Port Elgin.

3.6 Use

a) Permitted Uses

- i) If a use is not listed as a permitted or accessory use in a particular zone, it is hereby deemed to be a prohibited use in that zone.

- ii) Where a permitted use or uses subject to conditions, within any zone is defined in Part 1, the uses permitted within that zone shall include any similar use which satisfies such definitions except where any definition is specifically limited to exclude any use.

b) Accessory Uses

Where this By-law provides that any land may be used, or that a building or structure may be erected or used for a purpose, the purpose is deemed to include any use accessory or ancillary thereto, subject to the requirements of that zone.

c) Public Utilities

Public utilities shall be permitted in any zone.

d) Accessory Buildings

Accessory buildings shall be permitted in any zone but shall not:

- i) be used for human habitation except where a dwelling is a permitted accessory use; or
- ii) be built closer to the front lot line or flankage lot than the minimum distance required by this By-law for the main building of the lot;
- iii) be located within 1.2 m (4 ft) of any building on the lot;
- iv) exceed 6.7 m (22 ft) in height excluding agricultural, industrial and commercial uses;
- v) be permitted on a separate lot from a main building, except in the Rural Residential zone.

3.7 Multiple Uses

Where any land or building is used for more than one purpose, all provisions of this By-law relating to each use shall be satisfied and if more than one standard applies, the more stringent shall prevail.

3.8 Temporary Construction Uses

The use of land for the temporary location of a building or structure, or for other purposes incidental to a main construction project, is permitted to continue up to sixty days following completion of the main construction project.

3.9 One Building Per Lot

- a) Except as provided in 3.9 b), no more than one main building may be placed or erected and no building or structure may be altered to become a second main building on a lot;
- b) In any zone where uses are proposed to occupy more than one main building on the lot, the Commission may approve such uses subject to any terms and conditions as it may deem fit.

3.10 Special Uses

Nothing in this By-law shall prevent uses for special occasions and events such as midways, circuses, fairs or festivals, but not including vehicular events, provided that such uses remain in place no longer than 10 days. For these special uses, no Building Permit shall be required.

3.11 Lots, Yards and Other Standards

a) Existing Buildings

Where a building has been constructed on a lot having less than the required frontage or area, or having less than the minimum setback or side yard or rear yard required in this By-law, the building may be enlarged, reconstructed, repaired or renovated provided that:

- i) The enlargement, reconstruction, repair or renovation does not further reduce the front yard, flankage yard, side yard or rear yard that does not conform to this By-law; and
- ii) All other applicable provisions of this By-law are satisfied.

b) Existing Undersized Lots

- i) Notwithstanding anything else in this By-law, a vacant lot held in separate ownership from adjoining parcels in existence prior to the registration of this By-law, having less than the minimum frontage or area or both required by this By-law, may be used for a purpose permitted in the zone in which the lot is located.

A building permit may be issued, and a building may be erected on the lot provided that all other applicable provisions in this By-law are satisfied.

Where such lots are increased in size but remain undersized, they are deemed to be existing undersized lots.

3.12 Conformity With Existing Front Yards

In an in-filling situation where a front yard line has been established within 48.8 m (160 ft) of the proposed in-fill that is less than the required front yard setback, the existing line may apply for new construction and/or expansions and extensions.

3.13 Permitted Encroachments

Unless otherwise indicated in a particular zone, every part of any yard setback required by this By-law shall be open and unobstructed by any structure subject to the following:

- a) There may be constructed in any yard projections of sills, cornices, eaves, gutters, chimney breasts, pilasters, canopies, or other architectural features provided that no such feature shall project more than 0.6 m (2 ft) into a required yard setback;
- b) Window bays and solar collectors may be permitted to project a maximum of 0.9 m (3 ft) into a required yard setback;
- c) Uncovered patios shall not be located closer than 0.76 m (2 ft 6 in) into a required side yard setback;
- d) Wheelchair ramps and lifting devices may be located in any yard;
- e) Steps providing access at the first storey level may be located in any required front, rear or flankage yard;

- f) Exterior stair cases providing access to the basement or any floor above the first storey level, balconies, veranda and sundecks shall be permitted to project a maximum of 2 m into any required front, rear or flankage yard; and
- g) Unless otherwise indicated in this by-law, with the exception of the sight triangle provision, the provisions of this Section shall not restrict the location of ornamental planting or landscaping in any yard.

3.14 Corner Lot Sight Lines

Notwithstanding landscaping requirements and provisions for Corner Direction Signs, on a corner lot, no fence, sign, hedge, shrub, bush or tree or any other structure or vegetation shall be constructed, or permitted between 1 m (3 ft) and 2.4 m (8 ft) above the grade of the abutting streets within the triangular area measured along the abutting street line of each street a distance of twenty-one feet from their point of intersection known as the corner lot sight lines except where otherwise permitted in this By-law.

3.15 Zone Boundaries

Boundaries between zones shall be determined as follows:

- a) Where a zone boundary is indicated as following a street or highway, the boundary shall be the centreline of such street or highway.
- b) Where a railroad or railway right of way, electrical transmission line right of way or watercourse is included on the "Village of Port Elgin Zoning Map", figure 2 and serves as a boundary between two or more different zones, a line midway on such right of way or watercourse and extending in the general direction of the long division thereof shall be considered the boundary between zones unless specifically indicated otherwise.

3.16 Parking

a) General Provisions

The following general provisions will apply to all parking requirements:

- i) Parking requirements shall be in conformity with the parking provisions as provided in this By-law;
- ii) Parking shall be provided upon the same lot as, or within 152.4 m (500 ft) of, the use for which the parking is required;

- iii) Where there is a combination of uses on a lot, the minimum parking space requirements shall equal the combined total of the minimum requirements for each use;
- iv) Individual parking spaces shall have minimum dimensions of 2.7 m (9 ft) by 5.5 m (18 ft);
- v) Except for parking spaces for motel patrons, no parking space is permitted closer than 1.8 m (6 ft) from a wall containing windows to habitable rooms;
- vi) Within the Mixed Zone, parking requirements will be waived for existing structures presently being used for uses other than single dwellings;
- vii) All home occupations will be subject to the parking requirements of the zoning by-law.

b) Parking Space Requirements by Uses

- i) for **one- and two- unit dwellings and multiple dwellings** other than apartment requirements one space for each dwelling unit;
- ii) for **apartment buildings**, one space for dwelling unit, plus one additional space for each 4 dwelling units;
- iii) for **assembly buildings**, including arena, auditorium, church, funeral parlor, public hall, theater, rink or any building (such as a school) containing a like usage, one space for each 4 persons comprising a capacity audience or congregation therein;
- iv) for **hospitals, sanatoria, nursing homes or clinics** one space for each 5 bed patients provided for, and one space for every 2 staff at peak employment period;
- v) for **residential, hostels or rooming houses**, one space for each 2 guest rooms;
- vi) for **licensed establishments**, one space for each 3 patrons comprising capacity patronage;
- vii) for **motels, or hotels** one space for each habitable unit;

- viii) for **office buildings**, offices one space for each 46.4 sq m (500 sq ft) of gross floor area;
 - ix) for **medical offices**, 2 spaces per consulting room;
 - x) for **registered day care facilities**, 1.5 spaces per 38 sq m (409 sq ft) of gross floor area;
 - xi) for **restaurants** one space for each 4 guests;
 - xii) for **social clubs or fraternity** premises one space for each 23.2 sq m (250 sq ft) of gross floor area or fraction thereof;
 - xiii) for **sports or recreational fields** one space for each 6 persons for whom seating arrangements may be provided;
 - xiv) for **stores**, including retail, wholesale or service establishments one space for each 36 sq m (400 sq ft) of gross floor area, or fraction thereof;
 - xv) for **warehousing, wholesale, industrial or manufacturing buildings**, one space for each 3 employees or fraction thereof;
 - xvi) for personal services not mentioned in the above list, one parking space.
- c) **Reserved Spaces for Physically Challenged Persons**
- i) A minimum of 1 additional parking space shall be provided for physically disabled persons where 5 spaces are required; and additional spaces provided at a ratio of 4 percent of the total required in each lot above 25 spaces;
 - ii) The parking space(s) closest to a facility shall be reserved for parking for physically disabled persons;
 - iii) Each parking space reserved for physically disabled persons shall contain an area of not less than 21.6 sq m (240 sq ft) measuring 4 m by 5.5 m (13 ft by 18 ft);
 - iv) Each parking space reserved for physically disabled persons shall be clearly identified by a ground or facial sign;

- v) Where a parking area is defined by curbing, a ramped curb shall be provided so as to allow a physically disabled person to easily travel through or over such curbing.

3.17 Stripping of Soil and Removal of Excavation Material

- a) Subject to this section, no person may strip, excavate or otherwise remove soil for sale or for use from a lot or other parcel of land;
- b) The farming of sod or the removal of all excavated material, such as subsoil, clay, shale, stone, sand or gravel may only be carried on where the owner of the land has entered into an agreement with the Council making arrangements satisfactory to the Council for the rehabilitation of the land.

3.18 Signs

The purpose of the following signage regulations is to give the opportunity to convey information in a safe and reasonable manner.

a) Sign Permit

- i) Except for signs referred to in clause ii), no sign as defined in this by-law shall be erected, displayed, altered or enlarged until a building permit has been issued;
- ii) Construction signs, signs indicating hazardous or dangerous areas, or signs necessary for the safety of public utility which do not exceed 0.6 sq m, political signs for municipal, provincial or federal elections, temporary portable signs shall not require a building permit;
- iii) All applications shall include a scale drawing specifying dimensions, materials, illumination, letter sizes, colours, support systems, and location on land or buildings, with all relevant measurements.

b) Safety Standards

No person shall erect or maintain a sign which:

- i) Is an imitation of a traffic control device or contain the words "Stop", "go slow", "caution", "danger", "warning" or similar words;

- ii) Has a size, location, movement, content, colouring, or manner of illumination which may be confused with, constructed as, or tend to hide from view, any traffic control device; or advertise an activity, business, product or service no longer conducted on the premises on which the sign is located;
 - iii) Is in a defective condition or a state of disrepair. The sign shall be adequately repaired by the owner or lessee on receiving written notice from the development officer and if the condition is not repaired within 30 days of the mailing of such notice, the sign shall be removed and if not removed by the owner or lessee, the development officer shall order the removal of the sign at the expense of the owner.
- c) **Sign Provisions**
- i) **Temporary mobile signs** will be permitted for a maximum of two weeks in any zone for such purposes as social events, commercial promotions, store openings, auctions, special sales, cultural and social events and for any other similar purpose;
 - ii) **Inflatable sign, banner, streamer, or spinner** for occasions such as grand openings, fairs, and public festivals will be permitted for a period not to exceed twenty-one (21) calendar days;
 - iii) **General Advertising signs, Wall signs and Free Standing signs** are permitted in all zones except the residential zone provided that:
 - a) they shall not exceed 20 sq m in area;
 - b) they do not exceed the maximum height of a building or structure allowed in the zone;
 - iv) **Home occupation signs** may be placed in all zones provided that they do not exceed 0.4 sq m;
 - v) A sign not exceeding 3.0 sq m in area indicating the name of a farm and identifying the nature of the agricultural activity may be placed in the residential zone.

3.19 Development Near a Watercourse or Lake

- a) No development including soil disturbance shall be permitted within 50 ft (15.24 m) of a watercourse or from the high water mark of a lake or the top of a sloped embankment unless approved by Department of the Environment;
- b) Development shall be permitted such as, but not limited to, accessory buildings, encroachments such as wheel chair ramps, steps, patios and other structures which do not disturb the soil;
- c) Alterations to existing buildings in the 50 ft setbacks from a watercourse are permitted provided that the alteration does not involve soil disturbance.

3.20 Fences

Notwithstanding any other provisions of this By-law, a fence may be located near a yard in any zone subject to the following:

- a) Except for a security fence of chain link construction, no fence in a required front yard may exceed 1.5 m (5 ft) in height. A security fence is permitted to a maximum of 3 m (10 ft) in any yard;
- b) Subject to the requirements of subsection a) other fences or walls shall not exceed 2.4 m (8 ft) in height;
- c) Fences may be located on the lot line where all owners affected by the proposed fence have signed the building permit application.

3.21 Landscaping and Drainage

a) Landscaping

- i) Subject to this section, the owner of a lot developed for residential purposes shall landscape:
 - a) the front yard of the main building; and
 - b) that part of the lot within 1.5 m (5 ft) of any building thereon.

- ii) For the purpose of this section, landscaping shall include:
 - a) all grading necessary to divert surface water from the dwelling and from adjacent properties and insofar as it is reasonably possible, to contour the yard to the surrounding terrain, together with the installation of a lawn having a minimum of 8.75 cm (3.5 in) of topsoil; and
 - b) may include the placement of such paths, patios, walkways, trees, ornamental shrubs, vines and flowers.

3.22 Home Occupation

a) General Provisions

- i) Shall be secondary to the use of the dwelling unit, and will occupy no more than 50 percent of the dwelling floor area of a residential unit, or 25 percent of the sum of the dwelling floor plus the gross floor area of an accessory structure involved in the home occupation;
- ii) Not change the character of the building as a private residence or create or become a nuisance;
- iii) One off street parking space is provided in addition to the parking space requirement of the use. (See parking 3.16);
- iv) The following are not deemed to be home occupations:
 - a) automotive repair shops
 - b) large appliance repair
 - c) service industries
 - d) small engine repair
- v) A home occupation be conducted only by members of the family, resident therein, (one additional person may be engaged other than a family member or resident.
- vi) No goods or services other than those directly pertaining to the home occupation are supplied or sold therein.

b) Environmental Standards

- i) There shall be no emission of odorous gases or matter in such magnitude as to be readily discernible by the casual observer at the lot line;
- ii) There shall be no production of noise in excess of normal street traffic experienced at the lot boundary;
- iii) There shall be no physical hazard by reason of fire, explosion, toxic waste, radiation or similar cause to adjacent property;
- iv) There shall be no discharge of any waste material whatsoever on the property, adjacent property or into any watercourse;
- v) There shall be no dissemination of glare or vibration beyond the immediate building.

3.23 Enclosure for Swimming Pools

- a) No land may be used for purposes of a swimming pool unless the pool is enclosed by a fence or by a wall of a building or structure, or by a combinations of walls and fences, at least 1.5 m (5 ft) in height and meeting the requirements of this section.
- b) Where a portion of a wall of a building forms part of an enclosure, no main or service entrance to the building may be located therein; and any door therein, other than a door to a dwelling or rooming unit, shall be self-closing and equipped with a self-latching device at least 1.2 m (4 ft) above the bottom of the door.
- c) The enclosure shall not have rails, bracing or other attachments on the outside thereof that would facilitate climbing.
- d) A fence mentioned in subsection a):
 - i) shall be made of chain link construction, with galvanized, vinyl or other CSA - approved coating, or of wood or of other materials;
 - ii) shall not be electrified or incorporate barbed wire or other dangerous material and;
 - iii) shall be located at least 1.5 m (5 ft) from the edge of the swimming pool; and;

- ii) In the case of wood construction:
 - a) vertical boarding, not less than 2.5 cm x 10 cm (1 in x 4 in) nominal dimensions spaced not more than 3.75 cm (1.5 in) apart, attached to supporting members and arranged in such manner as not to facilitate climbing on the fence.
 - b) supporting wood posts at least 35 cm (14 in) square or round with 10 cm (4 in) diameters, set below frost and spaced not more than 2.4 m (8 ft) apart, with the portion below grade treated with a wood preservative, and with a top horizontal rail of at least 5 x 15 cm (2 x 6 in) nominal dimensions;
- iii) In the case of construction with materials and in a manner other than described in this subsection, rigidity equal to that.
- f) Gates forming part of an enclosure mentioned in subsection c):
 - i) shall be equivalent to the fence in content, manner of construction and height;
 - ii) shall be supported on substantial hinges; and
 - iii) shall be self-closing and equipped with a self-latching device at least 1.2 m (4 ft) above the bottom of the gate.

3.24 Pets

Except for the "RR" zone, the keeping of animals is restricted to household pets.

3.25 Single Detached Dwelling Units - Minimum Size

- a) Building shall have a minimum width and length of 6.25 m (20 ft).

PART 4 - ZONE CLASSIFICATION

- 4.1 For the purpose of this By-law, the following zones are established and the lands included in each zone are shown on the Zoning map.

<u>PARTS</u>	<u>ZONES</u>	<u>SHORT TITLES</u>
Part 5	Residential	R
Part 6	Rural Residential	RR
Part 7	Mobile/Mini Home	MH
Part 8	Mixed	M
Part 9	Residential Mixed	RM
Part 10	Institutional	Inst
Part 11	Conservation	C

PART 5 - RESIDENTIAL (R) ZONE

5.1 Uses

a) Permitted Uses

Any land, building or structure may be used for the purposes of, and for no other purpose, one of the following main or similar uses:

- i) one or two dwelling unit;
- ii) park or playground;
- iii) place of worship;
- iv) home occupation;
- v) community center;
- vi) existing agricultural uses (see the "*Village of Port Elgin Municipal Plan*" Policy No. 11.10);
- vii) special care home

b) Uses Subject to Conditions

The following main, secondary and/or similar uses will be permitted as building conversions and will be subject to such terms and conditions as may be imposed by the Planning Commission and Municipal Plan policy:

- i) bed and breakfast, Inn, hotel and motel;
- ii) antique store;
- iii) museum;
- iv) conversion of existing residential buildings to multiple unit buildings;
- v) craft and tourist store;
- vi) licensed daycare (7 or more children);
- vii) home occupations in an accessory building.

5.2 Zone Requirements

**Table 1
Residential and Residential Mixed**

	Residential Dwelling Unit (1)	Residential Side by Side Two Dwelling Units	Residential Multiple Dwelling Units 3+	Community Building (1)	Commercial Building (2)
Minimum Lot Area	557.4 sq m	650.3 sq m	640 sq m 93 sq m /ea unit	557.4 sq m	557.4 sq m
Minimum Lot Frontage	18.3 m	21.34 m	30.48 m	18.3 m	18.3 m
Minimum Front/Flankage Yard	7.62 m	7.62 m	9.14 m	7.62m	7.62 m
Minimum Side Yards	2.74 m 1.21 m	2.74 m 1.21 m	3.05 m / all	3.05 m or half the height whichever is the greatest	3.05 m 3.05 m
Minimum Rear Yards	7.62 m	7.62 m	9.14 m	7.62 m	7.62 m
Maximum Building Height	10.7 m	10.7 m	—————	10.7 m	10.7 m
Maximum Lot Coverage	50 %	50 %	—————	50 %	50 %

(1) Includes place of worship, community centre, museum, licensed daycare

(2) Includes bed and breakfast, antique store, restaurant, tourist store or similar uses

PART 6 - RURAL RESIDENTIAL (RR) ZONE

6.1 Uses

a) Permitted Uses

Any land, building or structure may be used for the purposes of, and for not other purpose, one of the following main or similar uses:

- i) agricultural use;
- ii) farm market outlet;
- iii) kennel;
- iv) veterinarian clinic;
- v) forestry use;
- vi) recreational uses (except for camping facilities);
- vii) one or two dwelling unit;
- viii) special care home;
- ix) home occupation;
- x) bed and breakfast;
- xi) place of worship;
- xii) building for public assembly, cultural and social activities;
- xiii) park and playground;

b) Uses Subject to Conditions

- i) The following main, secondary and/or similar uses are subject to such terms and conditions as may be imposed by the Commission and Municipal Plan policy:
 - i) extractive activities (see the "*Village of Port Elgin Municipal Plan*" Policy No. 3.3.5.6);
 - ii) campground facility;
 - iii) tourist accomodation;
 - iv) home occupation in accessory building.
- ii) The following main, secondary and/or similar uses will be permitted as building conversions and will be subject to such terms and conditions as may be imposed by the Planning Commission and Municipal Plan policy:
 - i) licensed daycare (more than 7 children);
 - ii) full service restaurant;
 - iii) multiple dwelling units;

6.2 Zone Requirements

**Table 2
Rural Residential**

	Residential Dwelling Unit (1)	Residential Side by Side Two Dwelling Units	Residential Multiple Dwelling Units 3+	Community Building (2)	Commercial Building (3)	Agricultural Buildings
Minimum Lot Area	As required by Department of Health and Wellness					_____
Minimum Lot Frontage	As required by Department of Health and Wellness					18.28 m
Minimum Front/Flankage Yard	7.62 m	7.62 m	30.48 m	7.62m	7.62 m	7.62m
Minimum Side Yards	2.74 m	2.74 m	9.14 m	3.05 m or half the height whichever is the	3.05 m	3.05 m
Minimum Rear Yards	7.62m	7.62m	4 m / all	7.62m	7.62m	7.62m
Maximum Building Height	10.7 m	10.7 m	_____	10.7 m	10.7 m	_____
Maximum Lot Coverage	50 %	50 %	_____	50 %	40 %	_____

- (1) Includes place of worship, community centre, municipal recreation, licensed daycare
 (2) Includes but not limited to :bed and breakfast, restaurant, campground, tourist shop

6.3 Other Requirement

A minimum separation distance of 20 meters shall be maintained between any barn, kennel, stable or other building intended for the keeping of animals (except household pets) and any residential non-farm dwelling.

PART 7 - MOBILE / MINI HOME (MH) ZONE

7.1 Uses

a) Permitted Uses

Any land may be used for the purpose of, and for no other purpose,

- i) mobile home or mini home
- ii) home occupation

Any accessory building, structure or use incidental to the main use of the land if such main use is permitted by this section.

Accessory structures

- i) shall not exceed one storey or 4.27 m in height
- ii) shall not be placed within the front yard
- iii) shall not be larger than 5% of lot size

b) Uses Subject to Conditions

The following secondary use is subject to such terms and conditions as may be imposed by the Commission

- i) home occupation in an accessory building.

7.2 Zone Requirements

Table 3
Mobile/Mini Home Residential

Minimum Lot Frontage	18.28 m
Minimum Front / Flankage Yard	5.48 m
Minimum Side Yard	2.74 m 1.21 m
Minimum Rear Yard	7.62 m
Maximum Lot Coverage	50 %

PART 8 - MIXED (M) ZONE

8.1 Uses

a) Permitted Uses

Any land, building or structure may be used for purpose of, and for no other purpose:

- i) residential use;
 - a) one or two unit dwelling
 - b) multiple unit dwelling
 - c) boarding house
 - d) housing complex
 - e) row house
- ii) veterinarian clinic;
- iii) hospital and clinic;
- iv) special care home;
- v) nursing home;
- vi) building for public assembly, cultural and social activities;
- vii) financial institution;
- viii) government building;
- xix) hotel or motel;
- x) educational use;
- xi) office;
- xii) personal service shop;
- xiii) service shop;
- xiv) funeral home;
- xv) place of worship;
- xvi) recreation, amusement or entertainment;
- xvii) restaurant, takeout, drive through;
- xviii) licensed beverage establishment;
- xix) retail store;
- xx) service station and/or motor vehicle repair garage;
- xxi) bus and taxi station;
- xxii) contractor's establishment, including storage yard;
- xxiii) manufacturing, assembly or fabrication industry;
- xxiv) machine shop;
- xxv) recycling depot;
- xxvi) processing establishment;
- xxvii) service or sales industry;
- xxviii) trucking and transport depot and ware;
- xxix) warehouse or storage establishment;

- xxx) waste transfer station;
- xxxii) wholesaler;
- xxxiii) existing agricultural use (see the "*Village of Port Elgin Municipal Plan*" Policy No. 11.10);
- xxxiv) fairground;
- xxxv) protective service;
- xxxvi) licensed daycare

b) Uses Subject to Conditions

The following main, secondary and/or similar uses are subject to such terms and conditions as may be imposed by the Commission and Municipal Plan policy:

- i) major retail

8.2 Pollution Abatement Standards

Pollution abatement standards for light industrial uses:

- a) that no dissemination of smoke, fumes, gas, dust odor or any atmospheric pollutant;
- b) that no discharge of any waste material into any watercourse except in accordance with all applicable governmental requirements;
- c) that no physical hazards by reason of fire, explosion, radiation or similar cause to property in the same or adjacent zones.
- d) that any use be destructive, unhealthy or hazardous for humans, animals or vegetation.

8.3 Zone Requirements

**Table 4
Mixed**

	Residential Dwelling Unit (1)	Residential Side by Side Two Dwelling Units	Residential Multiple Dwelling Units 3+	Row Houses	Service Stations	Other Commercial buildings	Industrial building
Minimum Lot Area	557.4 sq m	650.3 sq m	640 sq m 93 sq m / unit	131 sq m per unit	1800 sq m	557.4 sq m	1393.5 sq m
Minimum Lot Frontage	18.3 m	21.34 m	24.38 m	6 m	36.57 m	18.3 m	30.5 m
Minimum Front/Flankage Yard	7.62 m	7.62 m	9.14 m	9.14 m	9.14 m	7.62 m	9.14 m
Minimum Side Yards	2.74 m 1.21 m	2.74 m 1.21 m	3.05 m or half the height of the main building	4 m 0 m	6 m 12 m abutting single family residential	3.05 m 3.05 m	9.14 m
Minimum Rear Yards	7.62m	7.62m	9.14 m	9.14 m	9.14 m	7.62m	9.14 m
Maximum Building Height	12.2 m	12.2 m	19.8 m	12.2 m	12.2 m	12.2 m	12.2 m
Maximum Lot Coverage	50 %	50 %	50 %	40 %	50 %	60 %	50 %

Note: Industrial accessory buildings and structures may not exceed 7.32 m in height; may not be placed, erected or altered so that it is within the front yard of the main building; or, within 6.1 m of a side lot or a rear lot line.

PART 9 - RESIDENTIAL MIXED (RM) ZONE

9.1 Uses

a) Permitted Uses

Any land, building or structure may be used for the purposes of, and for no other purpose, one of the following main or similar uses:

- i) one or two dwelling unit;
- ii) tourist accomodation (inn, bed and breakfast, motel, hotel);
- iii) professionnal office;
- iv) personal service shop;
- v) service and repair shop;
- vi) recreation, amusement and entertainment;
- vii) restaurant;
- viii) licensed beverage establishment;
- ix) retail store;
- x) funeral home;
- xi) special care home;
- xii) museum;
- xiii) art and culture centre;
- xiv) place of worship;
- xv) car maintenance garage
- xvi) protective service.
- xvii) home occupation
- xviii) licensed daycare

b) Uses Subject to Conditions

The following secondary use is subject to such terms and conditions as may be imposed by the Commission

- i) home occupation in an accessory building.

9.2 Zone Requirements

Table 5
Residential and Residential Mixed

	Residential Dwelling Unit (1)	Residential Side by Side Two Dwelling Units	Residential Multiple Dwelling Units 3+	Community Building (1)	Commercial Building (2)
Minimum Lot Area	557.4 sq m	650.3 sq m	640 sq m 93 sq m /ea unit	557.4 sq m	557.4 sq m
Minimum Lot Frontage	18.3 m	21.34 m	30.48 m	18.3 m	18.3 m
Minimum Front/Flankage Yard	7.62 m	7.62 m	9.14 m	7.62m	7.62 m
Minimum Side Yards	2.74 m 1.21 m	2.74 m 1.21 m	3.05 m / all	3.05 m or half the height whichever is the greatest	3.05 m 3.05 m
Minimum Rear Yards	7.62 m	7.62 m	9.14 m	7.62 m	7.62 m
Maximum Building Height	10.7 m	10.7 m	—————	10.7 m	10.7 m
Maximum Lot Coverage	50 %	50 %	—————	50 %	50 %

(1) Includes place of worship, community centre, museum, licensed daycare

(2) Includes bed and breakfast, antique store, restaurant, tourist store or similar uses

PART 10 - INSTITUTIONAL (I) ZONE

10.1 Uses

a) Permitted Uses

Any land, building or structure may be used for the purposes of, and for no other purpose, one or more of the following main and/or similar uses:

- i) art and cultural center;
- ii) place of worship;
- iii) community center;
- iv) licensed daycare facility;
- v) funeral home;
- vi) cemetery;
- vii) educational facility;
- viii) governmental or municipal facility;
- ix) hospital and clinic;
- x) nursing home;
- xi) senior citizen housing complex;
- xii) special care;
- xiii) park or playground;
- xiv) recreational facility;
- xv) accessory dwelling unit subject to the zoning requirements of the R zone;
- xvi) public utility structures and land development
- xvii) protective service.

10.2 Zone Requirements

**Table 6
Institutional**

Minimum Lot Area	557.4 sq. m
Minimum Lot Frontage	21.34 m
Minimum Front / Flankage Yard	7.62 m
Minimum Side Yard	3 m or 1/2 the height whichever is the greatest
Minimum Rear Yard.	7.62 m
Maximum Building Height	15.2 m
Maximum Lot Coverage	35%

note: accessory dwelling unit associated with an institutional use will subject to the Residential zoning requirements.

PART 11 - CONSERVATION

11.1 Uses

a) Permitted Uses

Any land may be used for the purposes of, and for no other purpose, the following main or similar uses:

- i) public open space;

b) Uses Subject to Conditions

Any land, building or structure may be used for the purpose, and for no other purpose, one or more of the following main or similar uses; but shall be **subject to conditions**:

- i) recreational use;
- ii) ecotourism activity

