



The Municipal Corporation of the Town of Fort Erie

By-law No. 139-2019

Being a By-law to Amend Zoning By-law No. 129-90 Shipping/Cargo Containers

350309-457

Whereas By-law No. 129-90, as amended, being the Comprehensive Zoning By-law for the Town of Fort Erie was passed on May 28, 1990, and

Whereas Subsection 34 (1) of the *Planning Act*, R.S.O. 1990, c.P.13, authorizes the Council of the Municipality to regulate the use of lands and the character, location and use of buildings and structures within the Municipality, and

Whereas Report No.PDS-84-2017 was considered by the Council of the Town of Fort Erie at its meeting of November 20, 2017 and Council authorized staff to initiate an amendment to the Town's Comprehensive Zoning By-law 129-90, as amended, to address the reuse and temporary uses of shipping containers including permanent shipping/cargo containers in residentially zoned areas, and

Whereas an Open House was held respecting the proposed amendments to Comprehensive Zoning By-law No. 129-90 as amended on March 21, 2018 and notice of such was published in the Fort Erie Post on March 8, 2018, and

Whereas Subsection 34 (12) of the *Planning Act*, R.S.O. 1990, c.P.13, provides that the Council, before the passing of a by-law under this section of the Act, shall ensure that sufficient information is made available to the public to generally understand the zoning proposal, to hold a public meeting, and

Whereas in accordance with Subsection 34 (12) of the *Planning Act*, R.S.O. 1990, c.P.13 a Public Meeting was held respecting the proposed amendments to Comprehensive Zoning By-law No. 129-90 as amended, on April 8, 2019, and notice of such was published in the Fort Erie Post on March 14, 2019, and

Whereas Council determined that in accordance with Section 34(17) of the *Planning Act*, further notice was not required for the changes to the proposed By-law resulting from the approval of Option #1 in Supplemental Report No. PDS-45-1-2019 ;

Whereas it is deemed desirable to proceed with the shipping/cargo container amendments to the Comprehensive Zoning By-law No. 129-90 as amended, pursuant to Report No. PDS-45-2019, as amended, considered and approved at the Council-in-Committee Meetings of July 8, 2019 and October 7, 2019;

Now therefore the Municipal Council of The Corporation of the Town of Fort Erie enacts as follows:

1. **That** Section 5 of By-law No. 129-90, as amended, is repealed and replaced in its entirety with Section 5 attached hereto as Schedule “A”.

2. **That** Section 6.22 of By-law No. 129-90 as amended, is repealed and replaced with the following:

“6.22 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, commercial slaughterhouse, stockyard, or establishments for the sale or shipping of livestock
 - (vii) a piggery wherein pigs are fed treated garbage or other treated refuse
 - (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) DELETED
 - (xvii) the use of any trailer for 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, lime, fireworks or firearms.
 - (xix) a junk yard, salvage yard, automobile wrecking yard, or the collection, storage, use or sale of junk, salvage, partially or completely dismantled motor vehicle or trailers or parts of motor vehicles or trailers, including used tires.
 - (xx) locating or storing on any land for any purpose whatsoever any disused railroad car, streetcar body, vehicle body, shipping/cargo container or tractor or trailer body, not used for its intended purpose, whether or not the same is situated on a foundation, except as permitted in Section 6.36, 6.54 or 6.55.
 - (xxi) keeping or raising of any bull, ox, cow, sheep, horse, goat, pig, llama, alpaca 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 zone.

- (xxii) Adult Entertainment establishments
 - (xxiii) Toxic waste disposal and/or transfer sites
 - (xxiv) Drop forge plants
 - (xxv) The use of any vehicle or structure on a lot for the sale of food or merchandise, except as provided for in Subsection 6.36 (d).
 - (xxvi) The use of any vehicle or vehicle body on a lot, for storage purposes, except as provided for in Subsection 6.36.
 - (xxvii) Converted shipping/cargo containers or shipping/cargo containers in a Hazard (H) Zone, Environmental Protection (EP) Zone, Dune Protection (DP) Zone, Environmental Conservation (EC) Zone, or on any property designated under the Ontario Heritage Act.
- (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 Health Protection and Promotion Act, R.R.O. 1990, as amended from time to time, or any other 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."

3. That Subsection 6.36 Temporary Uses- Cargo Containers of By-law No. 129-90, as amended, is repealed and replaced with the following:

“SHIPPING/CARGO CONTAINERS

a) Industrial Zones

Shall be permitted in any Industrial Zone provided shipping/cargo containers are:

- i) not stacked more than 3 high
- ii) are located behind the main building,
- iii) are screened from view from any street or road allowance,
- iv) are setback a minimum of 3 metres from all side and rear property lines,
- v) and are temporary meaning for a period of no longer than 18 months.

b) Institutional Zones

A maximum of two shipping/cargo containers shall be permitted in the rear yard or interior side yard for the purposes of the temporary loading or unloading of items for charitable purposes in conjunction with a charitable institution or school provided shipping/cargo containers:

- i) are not stacked,
- ii) are located behind the main building,
- iii) are screened from view,
- iv) are setback a minimum of 3 metres from all side and rear property lines; and
- v) are temporary meaning each container may only remain for a period not exceeding 18 months.

c) Residential Zones

- i) a maximum of one shipping/ cargo container is permitted in the driveway or in a side yard of a residential property for moving and minor renovations not requiring a building permit for a maximum of 60 days in any calendar year provided:
 - 1) it is setback 1 metre from all property lines;
 - 2) does not exceed a maximum height of 3.0 metres and a maximum length of 6.1 metres;
 - 3) is not located in any site triangle; and
 - 4) is not located in any required parking space

- ii) A maximum of one shipping/cargo container is permitted in the driveway or a side yard of a residential property for renovations requiring a building permit for a maximum of 180 days in any calendar year provided:
 - 1) it is setback 1 metre from all property lines;
 - 2) does not exceed a maximum height of 3.0 metres and a maximum length of 6.1 metres;
 - 3) is not located in any site triangle; and
 - 4) is not located in any required parking space”

4. **That** the following Subsection 6.54 is inserted in By-law No. 129-90 as amended, immediately after Subsection 6.53:

“6.54 CONVERTED SHIPPING/CARGO CONTAINERS AS ACCESSORY USES

All converted shipping/cargo containers shall be a maximum width of 2.5 metres and a maximum length of 6.1 metres

a) Agricultural, Rural Zones

- i) A maximum of one converted shipping/cargo container will be permitted as an accessory to a residential use subject to the accessory use provisions in each zone.

- ii) Stacking shall not be permitted

b) Residential Zones

- i) A maximum of one converted shipping/cargo container will be permitted as an accessory to a residential use subject to the accessory use provisions in each zone.
- ii) Stacking shall not be permitted.
- c) Institutional, and Public Zones
 - i) A maximum of one converted shipping/cargo container will be permitted as an accessory use subject to the accessory use provisions in each zone.
 - ii) Stacking shall not be permitted.
- d) Commercial Zones

A converted shipping/cargo container will be permitted as accessory to a commercial use subject to the following special provisions:

- i) Two (2) converted shipping/cargo containers shall be permitted on all commercially zoned properties within the Town.
- ii) A shipping/cargo container shall be located in the rear yard only.
- iii) A shipping/cargo container shall have a minimum rear yard setback of 3 metres if the shipping/cargo container is 4.5 metres high or less.
- iv) A shipping/cargo container shall have a minimum rear yard setback of 4.5 metres if the shipping/cargo container exceeds 4.5metres in height.
- v) A maximum of one converted shipping/cargo container will be permitted as an accessory use in conjunction with a residential use in all commercial zones.
- vi) Stacking shall not be permitted.
- e) Open Space Zones
 - i) A maximum of two converted shipping/cargo containers will be permitted as an accessory use subject to the accessory use provisions in the open space zones.”

5. That the following Subsection 6.55 is inserted in to By-law No. 129-90 as amended, immediately after Subsection 6.54:

“6.55 SHIPPING/CARGO CONTAINERS IN AGRICULTURAL, RURAL AND INDUSTRIAL ZONES

- a) Agricultural Zones

- i) A maximum of one shipping/cargo container per 4 ha of lot area not exceeding a total of 4 shipping/cargo containers on an agricultural lot.
- ii) Container must be screened from view.
- iii) Located behind existing buildings or structures.
- iv) Stacking shall not be permitted.

b) Rural Zones

- i) A maximum of one shipping/cargo container per 2.5 ha of lot area not exceeding a total of 2 shipping containers on a rural lot.
- ii) Container must be screened from view.
- iii) Located behind existing buildings or structures.
- iv) Stacking shall not be permitted.

c) Industrial Zones

- i) Shipping/Cargo containers are permitted as an accessory use provided they are located in an interior side yard or rear yard only and screen from view from any street or road allowance.
- ii) Stacking shall not be permitted.”

6. That the Clerk of the Town is authorized to effect any minor modifications, corrections or omissions solely of an administrative, numerical, grammatical, semantical or descriptive nature to this by-law or its schedules after the passage of this by-law.

Read a first, second and third time and finally passed this 21st day of October, 2018.

Mayor

Clerk

I, Carol, Schofield, Clerk, of The Corporation of the Town of Fort Erie certifies the foregoing to be a true copy of By-law No. 139-2019 of the said Town. Given under my hand and the seal of the said Corporation, this day of _____, 20

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SECTION 5 – DEFINITIONS

5.1

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SECTION 5 - DEFINITIONS

- 5.1 **“ABANDONED”** means the failure, in the opinion of the Chief Building Official, to proceed expeditiously with construction work or to undertake construction work during any continuous 12 month period.
- 5.2 **“ACCESSORY APARTMENT DWELLING”** see section 5.99 (a) **“Dwelling, Accessory Apartment”**
- 5.3 **“ACCESSORY BUILDING OR STRUCTURE”** means a building or structure that is incidental and exclusively devoted to the main use and/or home occupation, and located on the same lot therewith.
- 5.4 **“ACCESSORY USE”** means a use customarily incidental and exclusively devoted to the main use and located on the same lot therewith.
- 5.5 **“ADULT ENTERTAINMENT ESTABLISHMENT”** means any premises or part thereof in which goods, entertainment, or services that are designed to appeal to erotic or sexual appetites or inclinations are provided in pursuance of a business in the premises or part thereof, and includes a body rub parlour.
- 5.6 **“AGRICULTURAL”** means general farming and without limiting the generality of the foregoing, shall include the raising and harvesting of field, bush, tree or vine crops, truck gardening, nurseries, greenhouses, medical marihuana grow and production facilities, dairying, animal husbandry, raising of poultry, raising of lamas and alpacas, vermiculture, aquaculture, equestrian centres, riding stables, the wholesaling of products used in agriculture but not including farm machinery, a farm product outlet as defined in this by-law, the sale and processing of produce grown on the farm from which the sale is made; and an accessory residential use or farm help house in accordance with the provisions of this By-law..
- 5.7 **“AGRICULTURALLY RELATED USE”** means farm-related commercial and farm-related industrial uses that are small in scale, directly related to agriculture and requiring proximity to farm operations and includes such uses as animal husbandry services, produce or grain storage facilities or farm machinery sales and service outlets.
- 5.8 **“ALTER”** means:
1. when used in reference to a building or structure or part thereof, to change any one or more of the external dimensions of such building or structure or to make any change in the supporting members or to the type of construction of the exterior walls or roof thereof;

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2. when used in reference to a lot to change the lot area, lot frontage or lot depth thereof; to change the width, depth or area of any required yard, landscaped open space or parking area; or to change the location of any boundary of such lot with respect to a street or lane, whether such alteration is made by conveyance or alienation of any portion of such lot or otherwise; or
3. when used in reference to a use, to discontinue and replace a use with a use which is defined herein as being distinct from the discontinued use.

(i) **“ALTERED”** and **“ALTERATION”** shall have corresponding meanings.

5.9 “AMPLIFICATION” means to increase in scope or volume through the magnification of electronic impulses or other means.

5.10 “AMUSEMENT MACHINE” means a mechanical or electrical machine or device intended for use as a game, entertainment or amusement offered for use of the public by any person for profit or gain and includes a pinball machine, television game, shooting gallery or other similar machine or device including an automatic machine or slot machine that dispenses as prizes one or more free games, but does not include any machine used only for the purpose of vending merchandise or services or playing recorded music.

5.11 “AMUSEMENT MACHINE ESTABLISHMENT” means any premises or part thereof containing three or more amusement machines.

5.12 “ANIMAL HOSPITAL” or **“SHELTER”** means a building or part thereof, with or without related structures, wherein domestic household pets including, but not so as to limit the generality of the foregoing, dogs, cats, caged birds and specialty fish, but excluding any animals kept primarily for the purpose of providing food or skins, are given temporary shelter and accommodation or are treated or kept for treatment by a registered veterinarian, and includes the office of a registered veterinarian, but does not include any establishment engaged primarily in the retail sale of animals or in breeding animals for gain or profit, or a veterinarian's clinic as defined herein.

5.13 “ANIMAL UNITS” – means the number of livestock that would produce 68-77 kg of nitrogen in their manure in one year.

5.14 “APARTMENT DWELLING” see section 5.75 (a) **“DWELLING APARTMENT”**

5.15 “ASSEMBLY HALL” means a building or part of a building in which facilities are provided for meetings of a civic, educational, political, religious, social or recreational nature and which facilities are capable of accommodating in excess of 100 persons

5.16 “ASSISTED LIVING HOUSE” means a building or part thereof which accommodates four or more residents who are aged, or physically or mentally infirm and who

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require guidance in the activities of daily living, and where 24 hours a day, at least the operator or one adult responsible to the operator, is on duty on the premises and able to furnish such guidance but does not mean a group home as defined herein.

5.17 "ATTACHED" means that the roof, wall and foundation of a building or structure is shared in common with another building or structure. Where the roof of one part of the structure is below the roof of another, the roof of one part of the structure may be shared in common with the wall of another.

5.18 "ATTIC" means that portion of a building situated wholly or partly within the roof, which is not used as a habitable room and is not a one-half storey as defined herein.

5.19 "AUDITORIUM" means a building or structure where facilities are provided for athletic, civic, education, recreational, political, religious or social events including, but not so as to limit the generality of the foregoing, an arena, a community centre, a bowling alley, a recreation centre, an assembly hall, a gymnasium, a stadium, a cinema, a theatre or a playhouse.

5.20 "AUTOMOTIVE RACE EVENT" means a racing event for automotive vehicles such as cars and trucks.

5.21 "AUTOMOBILE SERVICE STATION" means an establishment for the sale of gasoline, lubricating oils and associated automotive fluids and accessories and also may include an accessory service and repair facility for the undertaking of minor repairs and maintenance of vehicles that are essential to their operation, but does not include a body shop or automobile washing establishment.

5.22 "AUTOMOTIVE USE" means an automobile service station, a gasoline bar, a motor vehicle repair shop, a motor vehicle body shop or a vehicle sales or rental establishment as defined herein.

5.23 "BAKERY" means a food processing establishment where food products for which flour, grains, meal or sugar are the principal ingredients, are produced, mixed, compounded, baked or otherwise prepared.

5.24 "BAKE SHOP" means a shop where products of a bakery are sold or offered for sale by retail, including incidental baking of products for retail sale on the premises only.

5.25 "BALCONY" means a stage or platform, other than a stoop, projecting from the wall of a building and accessible from inside such building by means of a door.

5.26 "BANK" means an institution where money is deposited, kept, lent and exchanged and shall include Trust Companies, Credit Unions, Chartered Banks and other like financial institutions.

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- 5.27 “BANQUET HALL”** means a building or part of a building used for the purpose of entertaining a large group of people where food and beverages (either alcoholic or otherwise) are generally provided.
- 5.28 “BASEMENT”** means that portion of a building between two floor levels with a minimum height of 1.9 m which is partly underground but which has at least one-half its height from floor to ceiling above the average level of the adjoining grade.
- 5.29 “BED & BREAKFAST ESTABLISHMENT”** means a single detached dwelling or portion thereof, wherein not more than three (3) rooms are rented to persons for a single night or for less than one (1) week at a time by the owner / lessee / proprietor of the dwelling but does not include any type of institutional dwelling, hotel, motel or a tourist establishment.
- 5.30 “BEDROOM”** means a room located within a dwelling unit and used primarily for sleeping.
- 5.31 “BERM”** means a landscaped mound of earth.
- 5.32 “BINGO ESTABLISHMENT”** means any premises or part thereof which is primarily used for a specific game of chance, commonly known as bingo, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random.
- 5.33 “BLOCK”** means either all the land fronting on one side of a street between the nearest streets that meet, intersect or cross that side, or where the street ends at the municipal boundary or at a natural or artificial barrier, block means all the land fronting on the one side between the nearest street that meets, intersects or crosses that side and such boundary or barrier.
- 5.34 “BMX RACE TRACK”** means a track for the off road racing of BMX bicycles.
- 5.35 “BODY RUB PARLOUR”** means any premises or part thereof where a body rub is performed, offered, or solicited in pursuance of a trade, calling, business or occupation that does not include any premises or part thereof where the body rubs performed are for the purposes of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered to do so under the laws of the Province of Ontario.
- 5.36 “BODY SHOP”** (See “VEHICLE BODY SHOP”)
- 5.37 “BONA FIDE FARM OPERATION”** means a farm operation that provides full time employment for one or more persons.

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- 5.38 "BUFFER AREA"** means a strip of land, which is restricted to ecological enhancement, and restoration of the natural environment.
- 5.39 "BUILDING"** means any structure consisting of walls and a roof which is used or intended to be used for shelter, accommodation, or enclosure of persons, animals or chattels, and includes any structure defined as a building in The Building Code Act, 1992, as amended, but does not include any vehicles or vehicle body as defined herein.
- 5.40 "BUILDING BY-LAW"** means any by-law of the Corporation passed pursuant to The Building Code Act, 1992, S.O. 1992.
- 5.41 "BUILDING HEIGHT"** - (See "HEIGHT")
- 5.42 "BUILDING INSPECTOR"** means a person duly appointed by Council and charged with the duty of enforcing the provisions of The Building Code Act, 1992, S.O. 1992 and the provisions of the Building By-law.
- 5.43 "BUILDING LINE, ESTABLISHED"** means the existing setback of an existing main building on a lot, measured between the street line of the said lot and the nearest part of such building, excluding any stoops, sun decks, porches, verandas, sun rooms, balconies, exterior steps or architectural adornments.
- 5.44 "BUILDING LOT"** means a lot for the exclusive use of the principle use, and accessory uses thereto, permitted by the Zoning By-law and having a minimum frontage of 12 m onto an improved street.
- 5.45 "BUILDING, MAIN"** means a building in which the principal use is conducted on the building lot on which it is located. In the case of the Residential Zone the dwelling is the main building.
- 5.46 "BUILDING PERMIT"** means a permit required by the Building By-law and/or The Building Code Act, 1992.
- 5.47 "BUILDING SUPPLY SALES"** means a building or structure in which building or construction and home improvement materials are offered or kept for sale at retail and may include the fabrication of certain materials related to home improvement.
- 5.48 "BUSINESS OFFICE"** means a building or part thereof in which one or more persons is employed in the management, direction or conducting of a public or private agency, a business, a brokerage or a labour or fraternal organization including, but not so as to limit the generality of the foregoing, an office accessory to a permitted non-residential use, a telegraph office, a bank, the premises of a real estate or insurance agent, a data processing establishment, a newspaper publisher

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or a radio or television broadcasting station and related studios or theatres, but does not include a retail store or a professional office.

5.49 “BY-LAW ENFORCEMENT OFFICER” means a person appointed by Council and charged with the duty of enforcing the provisions of this By-law.

5.50 “CAMP” means a place where people are temporarily accommodated in tents, whether or not washing and toilet facilities are provided in permanent buildings, and shall include a trailer park.

5.51 “CANDY KITCHEN” means a building or part thereof, other than a restaurant, used for producing, mixing, compounding, cooling or otherwise preparing confectionary products including, but not so as to limit the generality of the foregoing, chocolate, candy, bon-bons and pastilles, where such prepared confectionary products are offered for retail sale.

5.52 “CANOPY” means a protective roof like covering of fabric or like material, mounted on a frame over an entrance doorway.

5.53 “CANTILEVER” means any projection beyond the foundation of a building whether or not such projection is essential to the support of the main wall and includes corner sills, belt courses and cornices.

5.54 “CARPORT” means a building or structure attached to a dwelling, at least forty percent (40%) of the area of the perimeter walls of which are open and unobstructed by any wall, door, post or pier;

(i) which is used for the temporary parking or storage of passenger motor vehicles, recreational vehicle, or commercial vehicles of less than one (1) tonne maximum capacity, and

(ii) wherein neither servicing or repairing is carried on for profit.

5.55 “CAR WASH” means a building or structure containing facilities specifically used or intended to be used for washing vehicles either by production line methods employing mechanical devices or by hand.

5.56 “CATERER’S ESTABLISHMENT” means an establishment in which food and beverages are prepared for consumption off the premises and are not served to customers on the premises or to take-out, but does not include a restaurant.

5.57 “CELLAR” means that portion of a building between two floor levels with a minimum height of 1.9 m which is partly or completely underground, and which has more than one-half of its height from floor to ceiling below grade.

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- 5.58 "CEMETERY"** means land that is set apart or used as a place for the interment of human remains, excluding crematoriums.
- 5.59 "CENTRAL BUSINESS DISTRICT"** or **"CBD"** means the areas designated "Central Business Districts" on Schedule "A" attached hereto.
- 5.60 "CHIEF BUILDING OFFICIAL"** means the Chief Building Official appointed by Council and charged with the duty of enforcing the provisions of The Building Code Act, 1992, S.O, 1992, and the provisions of the Building By-law.
- 5.61 "CHARITABLE INSTITUTION"** means a charitable, non-profit philanthropic corporation which is exempt from taxation as a charitable institution pursuant to the Assessment Act, R.S.O. 1990, as amended.
- 5.62 "CHURCH"** means a building owned or occupied by a religious congregation or religious organization and dedicated exclusively to worship and related religious, social and charitable activities, with or without a church hall, a church auditorium, convent or monastery, office of a clergyman, cemetery, Sunday school, parish hall or a parsonage as uses accessory thereto, including a day nursery.
- 5.63 "CLINIC"** means a building or part thereof used by medical doctors, dentists or drugless practitioners for the purpose of consultation, diagnosis or treatment.
- 5.64 "COMMERCIAL"**, when used in reference to a building, structure, lot, use or activity, means a building, structure, lot, use or activity pertaining to the buying or selling of commodities or the supplying of services for remuneration, but does not include activities associated with the manufacturing, warehousing or assembling of goods, or with any construction work.
- 5.65 "COMMERCIAL MOTOR VEHICLE"** means a motor vehicle weighing in excess of 3,600 kg used for business, employment or commercial purposes and shall include a tractor trailer or trailer for hauling purposes on the highway, earth moving equipment, backhoes and farm tractors.
- 5.66 "COMMERCIAL REFUELLING STATION"** means an establishment where vehicle fuels and lubricants are offered for retail sale primarily for commercial vehicles such as transport trucks, but does not include a gasoline bar.
- 5.67 "COMMITTEE OF ADJUSTMENT"** means the Committee of Adjustment of the Town of Fort Erie delegated authority to authorize minor variances and for the giving of consents in accordance with the provisions of Sections 45 and 53 of The Planning Act, R.S.O. 1990.

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- 5.68 “COMMUNICATION FACILITIES”** means a building or structure where communication-related activities such as newspaper production, television or radio broadcasting, wireless transmission or internet facilities occur.
- 5.69 “COMMUNITY CENTRE”** means the use of buildings or structures for the purposes of active and passive recreation, social gathering and other events including a day care facility and may have accessory commercial and office space to a maximum of 10% floor space”.
- 5.70 “CONSERVATION OF PLANT AND WILDLIFE”** means land left in its natural state for the purpose of providing sanctuary, habitat and breeding grounds for wild birds, animals and plant-life and includes a forest reserve.
- 5.71 “CONSTRUCTION TRADES ESTABLISHMENT”** means the wholesale sale of construction trade products and includes uses such as building supply yards, equipment and materials storage, tradesmen's shops, contractor's yards and accessory office uses.
- 5.72 “CONVENIENCE RETAIL STORE”** means a retail store serving the daily or occasional needs of the residents in the immediate area with a variety of goods including but not limited to groceries, meats, beverages, dairy products, patent medicines, sundries, tobacco, stationery, hardware, magazines, newspapers, and video sale and rental.
- 5.73 “CONVERTED SHIPPING/CARGO CONTAINER”** means shipping/cargo container(s) is no longer being used for its intended purpose, is subject to site plan control and complies with the site plan filed with the Town.
- 5.74 “CO-OPERATIVE CENTRE”** means a building that provides space for the following types of accessory activities: day-care facilities, office facilities directly related to the running of the Co-operative or the Co-operative Centre, meeting rooms, recreational facilities and other accessory uses for the Co-operative. The Co-operative Centre would be available to residents of the Co-operative as well as the community. **(BOARD ORDER Z920023).**
- 5.75 “CORPORATION”** means the Corporation of the Town of Fort Erie.
- 5.76 “COTTAGE”** means a detached building that is not equipped with a permanent central heating system, used as an occasional resort for recreation, rest or relaxation, but not occupied continuously or used as a principal residence.
- 5.77 “COUNCIL”** means the Council of the Corporation of the Town of Fort Erie.

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- 5.78 "COURT"** means an open, uncovered and unoccupied space, appurtenant to a building and abutted on two or more sides by buildings.
- 5.79 "COURT, DEPTH OF"** means the greatest horizontal dimension of a court.
- 5.80 "COURT, OUTER"** means a court which extends to or opens upon a yard, street or public lane.
- 5.81 "COURT, WIDTH"** means the least horizontal dimension between the opposite sides measured at right angles to the longest sides of a court.
- 5.82 "CUSTOM BROKERS"** means an establishment primarily engaged in arranging transportation of freight between shippers and carriers, offering a combination of services spanning transportation modes.
- 5.83 "CUSTOM WORKSHOP"** means a building or part of a building used by a trade, craft or guild for the manufacture of custom made quantities of made-to-measure clothes, or articles and includes upholstery, but does not include metal spinning, woodworking or furniture manufacturing or any factory production or any shop or factory otherwise classified or defined in this By-law.
- 5.84 "DAIRY"** means and includes a creamery, cheese or butter factory, condensed or powdered milk factory, ice cream factory, milk pasteurization and bottling plant, milk or cream shipping or receiving station, and any other similar use and may include an accessory retail outlet to sell those products produced on the premises, providing the floor area devoted to retailing does not exceed 10% of the gross floor area of the principal structure.
- 5.85 "DANGEROUS TRADES"** means a use which is likely to create danger to health or danger from fire or explosion.
- 5.86 "DAY NURSERY"** means a premises licensed by the Province of Ontario, that receives more than five children, who are not of common parentage, primarily for the purpose of providing temporary care or guidance (or both) for a continuous period not exceeding 24 hours
- 5.87 "DAYLIGHTING TRIANGLE"** when used in this By-law means the same thing as a "SIGHT TRIANGLE" as defined in Subsection 5.231 of this By-law.
- 5.88 "DECK"** means a roofless, unenclosed structure, accessory to a dwelling, consisting of a platform raised above finished grade, with or without steps.
- 5.89 "DEPARTMENT STORE"** means a store organized into a number of individual departments selling a great variety of merchandise including men's and women's clothing and home furnishings.

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5.90 “DETACHED” means “not attached”.

5.91 “DEVELOPMENT” means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot.

5.92 “DEVELOPMENT AGREEMENT” - (See “SITE PLAN AGREEMENT”)

5.93 “DINING ROOM” means that part of a restaurant, refreshment room or other building, other than a dwelling, which is used for the consumption of food or beverages by persons seated at booths, counters, tables, or a combination thereof.

5.94 “DRAG RACING” means the racing of motor vehicles in pairs from a standing start **over a measured distance from a starting line to a finish line on a straight track.**

5.95 “DRESSMAKING SHOP” - (See “TAILOR OR DRESSMAKING SHOP”)

5.96 “DRIVER EXPERIENCE FACILITIES” means a building or parts thereof containing classrooms and garages for driver training.

5.97 “DRIVEWAY” means a vehicle access provided between a street or lane and a parking area or a loading space, or between two parking areas, but does not include a parking aisle.

5.98 “DRY CLEANING OUTLET” means a building used for the purpose of receiving articles or goods of fabric to be subjected to the process of dry cleaning, dry dyeing, or cleaning elsewhere and for the pressing and distribution of any articles or goods which have been subjected to any such process.

5.99 “DRY CLEANING PLANT” means a building or part thereof where dry cleaning, dry dyeing, cleaning or pressing of articles or goods of fabric is carried on and may include a dry cleaning outlet but does not include a laundry or laundromat.

5.100 “DUNE STABILIZATION” means the action of planting on sand dunes with grasses or other native plants for the purpose of maintaining the structure of the dune.

5.101 “DWELLING” means a building containing one or more dwelling units.

(a) **“DWELLING, ACCESSORY APARTMENT”** means a self-contained apartment created through converting of or adding onto an existing single detached, semi-detached or townhouse dwelling. (BY-LAW 118-2013).

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- (b) **“DWELLING, APARTMENT “** means a dwelling containing 4 or more dwelling units accessible from a corridor system connecting with a common entrance from outside the dwelling, where the occupants of such units have the common right to use halls, stairs, elevators and yards, the said dwellings being located on a single lot with or without other dwellings, such lot being held and maintained under one ownership or under condominium ownership pursuant to The Condominium Act, 1998 as amended, or any successor legislation.
- (b) **“DWELLING, BLOCK TOWNHOUSE”** means a dwelling containing three or more dwelling units having private independent entrances directly from a yard and being attached horizontally in whole or in part above grade and divided vertically from each other by a common wall, the said dwelling being located on a single lot, such lot being held and maintained under one ownership or under condominium ownership pursuant to The Condominium Act, 1998, as amended, or any successor legislation.
- (c) **“DWELLING, BOARDING HOUSE”** means a single dwelling that contains a dwelling unit occupied and used by the owner of such dwelling as his principal residence together with not less than two and not more than four accessory guest rooms.
- (d) **“DWELLING, CONVERTED”** means a single detached dwelling that has been altered or otherwise converted to contain therein more than one (1) but not more than 2 dwelling units.
- (e) **“DWELLING, DUPLEX”** means a dwelling other than a converted dwelling, which is divided horizontally into two dwelling units, each of which has an independent entrance either directly from a yard or from a common vestibule.
- (f) **“DWELLING, FOURPLEX”** means a dwelling which is divided both horizontally and vertically into 4 dwelling units, each of which has an independent entrance from a yard or a common vestibule.
- (g) **“DWELLING, MAISONETTE”** means a back-to-back townhouse dwelling.
- (h) **“DWELLING, SEASONAL”** means a dwelling unit constructed as a secondary place of residence for seasonal use only.
- (i) **“DWELLING, SECOND UNIT”** means a separate building on a lot containing a dwelling unit which is subordinate and secondary to the principal dwelling unit located on the same lot.”

- (j) **“DWELLING, SEMI-DETACHED”** means a pair of dwelling units which are attached together in whole or in part, either above grade or below grade and divided vertically from each other by a common wall and each of which has a private, independent entrance directly from a yard and said pair of dwelling units shall be free standing, separate and detached from other main buildings or structures. Where such attachment is above grade a minimum of 35% of the vertical wall area shall be attached, and where below grade, a minimum of 10% or 4 sq. m, whichever is the greater of the vertical wall area shall be attached.
- (k) **“DWELLING, SINGLE DETACHED”** means a dwelling unit which is freestanding, separate and detached from other main buildings or main structures.
- (l) **“DWELLING, SPLIT-LEVEL”** means a dwelling unit in which the first floor above finished grade is so constructed as to create two or more different levels, the vertical distance between such levels being always less than the full storey. For the purpose of this By-law, a split-level dwelling shall be considered as a one-storey dwelling.
- (m) **“DWELLING, STREET TOWNHOUSE”** means a group of not less than 3 but not more than 8 dwelling units which are attached together horizontally in whole or in part above grade and divided vertically from each other by a common wall between each two adjacent dwelling units and each of which fronts onto a travelled public road and has a private independent entrance directly from a yard.
- (n) **“DWELLING, TRIPLEX”** means a dwelling other than a converted dwelling, which is divided into three dwelling units, each of which has an independent entrance either directly from a yard or from a common vestibule.

5.102 “DWELLING UNIT” means a suite of habitable rooms which:

- (i) is located in a building;
- (ii) is used or intended to be used in common by one or more persons as a single, independent and separate housekeeping establishment;
- (iii) contains food preparation and sanitary facilities provided for the exclusive common use of the occupants thereof, and
- (iv) has a private entrance directly from outside the building or from a common hallway or stairway inside the building.

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- 5.103** “**DWELLING UNIT AREA**” means the aggregate floor area of habitable rooms in a dwelling unit excluding basements, cellars, attics, garages, or carports, balconies, sunrooms, verandas, porches and the thickness of all exterior walls.
- 5.104** “**DYNAMIC BEACH HAZARD**” means areas if inherently unstable accumulations of shoreline sediments along Lake Erie and the Niagara River as identified by provincial standards as amended from time to time. The dynamic beach hazard limit consists of the flooding hazard plus a dynamic beach allowance.
- 5.105** “**EATING ESTABLISHMENT**” means a building or part of a building where food is offered for sale or sold to the public for immediate consumption and includes such uses as an eat-in restaurant, take-out restaurant, drive-in restaurant, drive-thru restaurant, cafe, cafeteria, ice cream parlour, tea or lunch room, dairy bar, coffee shop, snack bar or refreshment room or stand, but does not include a boarding or lodging house.
- 5.106** “**EMISSION**” means any corrosive gases, dust, dirt, fly ash, electromagnetic fields, heat, glare, odours, smoke, toxic gases or radiation issuing from a building, structure or lot.
- 5.107** “**EQUESTRIAN CENTRE**” means the use of land, buildings, or structures for the boarding of horses, the training of horses and riders, and the staging of equestrian events, but does not include the racing of horses.
- 5.108** “**EQUINE RELATED MANUFACTURING FACILITIES**” means a building, or part thereof, used for the manufacturing of equine related products including but not limited to tack, carts, buggies, sulkies, and carriage manufacturing.
- 5.109** (a) “**ERECT**” means to build, place, construct, reconstruct, relocate or alter by means of an addition, enlargement or extension, and includes any preliminary physical operation preparatory to such building, construction, reconstruction or relocation including, but not so as to limit the generality of the foregoing, excavating, filling or draining.
- (b) “**ERECTED**” and “**ERECTION**” shall have corresponding meanings.
- 5.110** “**EROSION HAZARD**” means the loss of land, due to human or natural processes, that poses a threat to life and property. The erosion hazard limit is determined using considerations that include the 100 year erosion rate (the average annual rate of recession extended over a one hundred year time span), an allowance for slope stability, and an erosion/erosion access allowance.
- 5.111** “**EVENT PARKING**” means temporary parking area which operates between May 1st and October 31st in any given year.

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- 5.112 “**EXISTING**” means “lawfully existing prior to the date of passing of this By-law”.
- 5.113 “**EXTERIOR FACADE**” means the shape, colour and type of material of the facing of any exterior wall of a building or structure.
- 5.114 “**FACTORY OUTLET**” means a building, or part thereof, accessory to, and clearly secondary to, a manufacturing plant, food processing establishment, warehouse, petty trade or merchandise service shop, wherein products manufactured, produced, processed or stored on the premises are kept for display and offered for wholesale or retail sale, or wherein orders are taken for the delivery of such products, and such area shall not exceed 10% of the gross floor area of the principal structure.
- 5.115 “**FARM**” means land used for agricultural uses and includes a farm dwelling and accessory buildings, which may include accommodation for full time or seasonal farm workers.
- 5.116 “**FARM HELP HOUSE, PERMANENT**” means a building located on the same lot and accessory to an agricultural use and which is provided and maintained by the owners of the lot for the accommodation of persons employed full time in agriculture by the owner of the lot.
- 5.117 “**FARM HELP HOUSE, SEASONAL**” means a trailer located accessory to a principal farm dwelling and used only for the accommodation of one or more persons employed on the farm between April 1st and November 30th of each calendar year.
- 5.118 (a) “**FARM PRODUCT MARKET**” means a building or structure where farm products are offered for retail sale.
- (b) “**FARM PRODUCT OUTLET**” means a building or structure accessory to a farm where farm products produced on the farm are offered for retail sale on the same lot as the farm.
- 5.119 “**FARM SUPPLY AND SERVICE ESTABLISHMENT**” means the use of land and/or buildings or structures for the provision of goods, materials or services that are necessary to support an agricultural use as permitted in this by-law and without limiting the generality of the foregoing may include such goods and services as machinery sales and service, welding, contracting trades related to agriculture, custom equipment operations, veterinary services and processing and storage of seed, feed, fertilizer and agricultural chemicals.

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- 5.120** “**FARM WINERY**” means a farm on which buildings and structures are used for the making of wines from Niagara Fruit, a minimum of 50% of which is grown exclusively on site.
- 5.121** “**FENCE**” means a vertical physical barrier constructed to provide a visual screening or to prevent unauthorized access and includes the posts and/or supporting structure.
- 5.122** “**FINANCIAL INSTITUTION**” means a building or premises used by a bank, credit union, trust company, finance company, mortgage company or investment company.
- 5.123** “**FINISHED GRADE**” means the average elevation of the finished surface of the ground of a building or structure, exclusive of any artificial embankment abutting such building or structure.
- 5.124** “**FITNESS CENTRE**” Means a premises in which facilities and activities are provided to obtain physical fitness and shall include weightlifting machinery and equipment and may include exercise classes and associated facilities such as a sauna, retail store, office space and related lounge facilities.
- 5.125** “**FLOOD**” means a temporary inundation of lands adjacent to the normal low flow channel of a watercourse.
- 5.126** “**FLOODING HAZARD**” means the inundation, under the conditions specified below, of areas adjacent to a shoreline or a river or stream system and not ordinarily covered by water:
- a) Along the shore of Lake Erie the flooding hazard limit is based on the 100 year flood level plus an allowance for wave uprush and other water related hazards.
 - b) Along river, stream and small inland lake systems, the flooding hazard limit is the greater of:
 - i) the 1 and 100 year flood; and
 - ii) a flood which is greater than which was actually experienced in a particular watershed or portion thereof as a result of natural ice jams and which has been approved as the standard for that specific area by the Minister of Natural Resources.
 - c) except where the use of the 1 and 100 year flood or the actually experienced event has been approved by the Minister of Natural Resources as the standard for a specific watershed (where the past history of the flooding supports the lowering of the standard).

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- 5.127** “**FLOOD, 100-YEAR**” means a flood which has a one percent probability of occurring or being exceeded in any given year. The flood is likely to occur or be exceeded on an average of once every one hundred years. It is the flood used for regulatory purposes in the municipality of Fort Erie.
- 5.128** “**FLOODPLAIN**” means the land adjacent to a waterbody which will be inundated in the event of a flood.
- 5.129** “**FLOOR AREA**” means the area of a floor or floors in a building exclusive of basements, cellars, attics, garages, carports, sun rooms, verandas, or porches including the thickness of all exterior walls.
- 5.130** “**FLOOR AREA, GROSS**” means the aggregate of the floor areas of all storeys of a building or structure, other than an attic or a cellar, excluding the floor area of any private garage.
- 5.131** “**FLOOR AREA, GROUND**” means the floor area of the first storey of a building, excluding the floor area of any private garage.
- 5.132** “**FLOOR AREA, NET**” means that portion of the gross floor area of a building which is used exclusively for a non-residential use defined herein or specifically named elsewhere in this By-law, but excluding:
- (i) any part of such building used for any other non-residential uses which are defined herein or specifically named elsewhere in this By-law;
 - (ii) any part of such building used as a dwelling unit, a public concourse, or a common hallway or stairway not used exclusively by the said non-residential use;
- any part of such building used solely for the storage of electrical equipment or of equipment to heat, cool, or otherwise control the environment of, such building or a portion thereof; and
- (i) the thickness of any exterior walls of such building.
- 5.133** “**FLORIST**” means a retail store where flowers and plants are sold or offered for sale to the public and such uses may include the incidental raising and arranging of flowers and plants for sale in the store.
- 5.134** “**FOOD PROCESSING ESTABLISHMENT**” means a building or part of a building, other than a restaurant or a refreshment room in which agricultural products are prepared, processed, preserved or stored for human consumption, and includes a dairy, a bakery, a cannery, a catering establishment or a soft drink manufacturing establishment.
- 5.135** “**FORESTRY USE**” means the general raising and harvesting of wood and without limiting the generality of the foregoing, includes the raising and cutting of fuel wood, pulp wood, lumber, Christmas trees and other forest products.

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- 5.136 “FRONTAGE” - (See “LOT FRONTAGE”)
- 5.137 “FRONT LOT LINE” - (See “LOT LINE FRONT”)
- 5.138 “FRONT YARD” - (See “YARD”)
- 5.139 “FUEL STORAGE TANK” means a tank used or intended to be used for the bulk storage of combustible or inflammable liquids or gases including, but not so as to limit the generality of the foregoing, petroleum or petroleum products.
- 5.140 “GAME” means any combination of Black Jack tables, Rapid Black Jack tables, Wheels of Fortune and other games as may be authorized by the Provincial Director of Gaming Services in accordance with the provisions of the Gaming Control Act S.O. 1992.
- 5.141 “GAMING FACILITY” means a place which is used to conduct any gaming activities that are licensed and/or regulated by the Province of Ontario including a casino.
- 5.142 “GAMING POSITION” means each seat at a gaming table, slot machine, video lottery terminal and any other games as may be authorized by the Province.
- 5.143 “GAMING PREMISES” means a place which is used to conduct Monte Carlo gaming events pursuant to the Gaming Control Act S.O. 1992 (BY-LAW 235-93).
- 5.144 “GARAGE” means an enclosed or partially enclosed building or structure for the storage of one or more vehicles having a minimum internal dimension of 6.0m depth x 3.0m width x 2.4m height, but does not include a carport.
- 5.145 “GARAGE, MUTUAL” means a private garage which:
- (i) contains sufficient space for the parking of not less than two permitted vehicles;
 - (ii) is situated astride a common side lot line between two adjacent lots; and
 - (iii) is accessory to a main use on each of such lots.
- 5.146 “GARAGE, PUBLIC PARKING” means a building, other than a private or neighbourhood garage, which is used for the sheltering of motor vehicles.
- 5.147 “GARAGE, SEMI-DETACHED” means a garage vertically divided by a common wall into two separate garages each of which has an independent entrance.

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- 5.148** “**GARAGE SALE**” means a sale conducted on a residential property by an occupant of such residential property, of household goods belonging to the occupant, and includes a yard sale and the like.
- 5.149** “**GARDEN CENTRE**” means land and building or either of them used for the growing and sale of any type of plants, trees and shrubs, and the sale of garden supplies, including tools, ceramics and related materials essential to landscaping, gardening and greenhouse operations as well as the sale of agricultural produce.
- 5.150** “**GASOLINE BAR**” means an establishment where vehicle fuels and lubricants are offered for retail sale, but does not include a commercial refuelling station.
- 5.151** “**GO-KART TRACK**” means a paved track for the racing of a low motor vehicle with four wheels and an open framework.
- 5.152** “**GOLF COURSE**” means a public or private area operated for the purpose of playing golf and includes a driving range, a miniature golf course or similar uses operated for commercial purposes.
- 5.153** “**GRADE**” when used with reference to a street, road or highway, means the elevation of the street, road or highway established by the Town or other designated authority.
- 5.154** “**GRANDSTAND**” means a large permanent structure for seating spectators. The grandstand is multi-tiered and is covered with a roof.
- 5.155** “**GREENHOUSE**” means a building or structure having a permanent foundation constructed chiefly of glass or plastic and which is used for cultivation of plants and vegetables and the propagation of plants.
- 5.156** “**GREENHOUSE PRODUCT OUTLET**” means a building or structure accessory to a greenhouse when greenhouse products are offered for retail sale on the same lot as the greenhouse.
- 5.157** “**GROUP HOME**” means a dwelling unit in a residential dwelling in which three to eight persons (excluding staff or receiving family) reside under responsible supervision consistent with the requirements of its residents. The home is licensed or approved under Provincial statute and is in compliance with Town by-laws.
- 5.158** “**GUEST ROOM**” means a room or suite of rooms wherein temporary accommodation, with or without meals, is provided for gain or profit to one or more persons.

- 5.159** “**HABITABLE ROOM**” means a room which:
- (i) is located within a dwelling unit;
 - (ii) is designed for living, sleeping or eating, or contains sanitary or food preparation facilities;
 - (iii) can be used at all times throughout the year, and;
 - (iv) has a minimum height of 2.0 m;
- but does not include any room defined as a Non-Habitable Room.
- 5.160** “**HEALTH CARE FACILITY**” means any building or part of a building that is used exclusively by physicians, dentists and drugless practitioners registered under the Drugless Practitioners Act, R.S.O, 1990 or any of them, their staff and their patients or clients for the purpose of consultation, diagnosis and office treatment in connection with the practice of medicine, the practice of dentistry or practice as a drugless practitioner.
- 5.161** “**HEIGHT OF BUILDING**” means the vertical distance between finished grade along the front elevation and:
- the highest point of the roof surface for a gable, hip, gambrel or mansard roof
 - the highest point of a parapet wall of a flat roof
 - the highest point of the roof surface for any other type of roof.
- 5.162** “**HEREAFTER**” means after the date of the passing of any applicable provision of the By-law.
- 5.163** “**HEREIN**” means “in this By-law” and shall not be limited to any particular section of the By-law.
- 5.164** “**HEREOF**” and “**HERETO**” means “of this By-law” and “to this By-law” respectively.
- 5.165** “**HOME FOR THE AGED**” means a home for senior citizens sponsored and administered by a public agency or service club, or any other non-profit organization, which obtains its financing from Federal, Provincial, Municipal Governments or agencies and may include accessory uses such as club and lounge facilities, usually associated with senior citizen development.
- 5.166** “**HOME OCCUPATION**” means an occupation, trade, business, profession, or craft, carried on as a secondary and incidental use within any dwelling unit and/or accessory structure, which is carried out by the residents of the dwelling in which the home occupation is located and up to one (1) employee, and is subject to the limitations of Section 6.8 of this By-law.

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- 5.167** “**HOOP HOUSES**” means a temporary building used for the winter protection of nursery stock, which is:
- (i) placed on the surface of the ground and has no permanent foundation;
 - (ii) not heated; and
 - (ii) the sides and/or roof of which is in place for less than six months of the year.

For the purposes of this By-law, a hoop house shall not be included in the calculation of maximum coverage.

- 5.168** “**HOSPICE**” means a facility that provides palliative care and attends to the emotional and spiritual needs of terminally ill patients.

- 5.169** “**HOSPITAL**” means a hospital as defined in **the Public Hospitals Act, R.S.O. 1990** and a private hospital as defined in **the Private Hospitals Act, R.S.O. 1990**.

- 5.170** “**HOTEL**” means any establishment so defined in **the Hotel Registration of Guests Act, R.S.O. 1990**, as amended from time to time, or any successors thereto, and includes a motel or motor hotel.

- 5.171** “**IMPROVED STREET**” - (See “**STREET IMPROVED**”)

- 5.172** “**INDUSTRIAL USE**” means the use of land, buildings or structures for the manufacturing, processing, fabricating or assembly of raw materials or goods, warehousing or bulk storage of goods and related accessory uses.

- 5.173** “**IN-HOME PET BOARDING**” means a home occupation, in which the care and temporary overnight accommodation of not more than three (3) domestic household pets, in return for remuneration, is permitted but shall not include any outdoor facilities or a “**Kennel**” or “**Pet Day Care Establishment**” as defined herein.

- 5.174** “**INFILL LOT**” means a lot abutted on at least two sides by lots containing dwellings that have existed for a minimum of 8 years.

- 5.175** “**INSTITUTIONAL**” means the use of land, buildings or structures for religious, charitable, educational, health or welfare purposes, and without limiting the generality of the foregoing includes churches, places of worship, public or private schools, day nursery, public or private hospital, children’s home, nursing home, home for the aged or infirm, monastery, convent, and training school.

- 5.176** “**INTERIOR SIDE LOT LINE**” - (See “**LOT LINE INTERIOR SIDE**”)

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- 5.177** “**INTERIOR SIDE YARD**” - (See “**YARD**”)
- 5.178** “**KENNEL**” means a structure, building or fenced run or any part thereof, or areas of land in which domesticated animals are bred, raised, trained, sold or kept for sale or boarded in return for remuneration, but does not include a “Pet Day Care Establishment” as defined in this by-law.
- 5.179** “**LANDSCAPED AREA**” means an open area of land which is:
- (i) unoccupied by any building;
 - (ii) situated at ground level on a lot; and
 - (iii) used or intended to be used for the growth and maintenance of grass, flowers, shrubs, bushes, trees and other vegetation, and for the provision of other landscaping features including, but not limited to, planting strips, facilities for outdoor recreation, play areas, surfaced walks and patios;
 - (iv) but does not include any part of a driveway or parking area, regardless of surface composition, or any retaining wall, roof-top terrace, balcony, swimming pool or space enclosed within a building.
- 5.180** “**LANE**” means a walkway, emergency access or any other passageway or right-of-way, open from ground to sky, not constituting a street but laid down upon a registered plan and dedicated to public use, or legally granted or conveyed as a right-of-way for use in common by adjacent landowners.
- 5.181** “**LAUNDROMAT**” means a self-serve clothes washing establishment containing one or more washers and drying, ironing, finishing or other incidental equipment, available for use by the public for a fee.
- 5.182** “**LAUNDRY**” means a building or a part thereof where the washing, drying and ironing of articles or goods of fabric is carried on but does not include a dry cleaning plant or Laundromat.
- 5.183** “**LEGAL**” or “**LAWFUL**”, when used in reference to a use, a lot, a building or a structure, means a use, a lot, a building or a structure permitted by law, which complies with any and all restrictions and regulations lawfully imposed by the Corporation or by any governmental authority having jurisdiction to make such restrictions and regulations.
- 5.184** “**LEGALLY**” or “**LAWFULLY**” have corresponding meanings.
- 5.185** “**LEGAL SIGN**” - (See “**SIGN**”)
- 5.186** “**LIBRARY, PUBLIC**” means a library, branch library or distributing station under The Public Libraries Act, R.S.O. 1990.

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- 5.187** “**LIQUOR STORE**” means a building or part thereof in which spirits, wine and beer or any combination thereof and includes any alcohol in a form appropriate for human consumption as a beverage, alone or in combination with any other matter are offered for retail sale for consumption elsewhere in accordance with the Liquor Licence Act R.S.O. 1990.
- 5.188** “**LIVESTOCK FACILITIES**” means barns, buildings or structures where animals are housed and shall also include beef feedlots and the associated manure storage facilities. “**LIVESTOCK UNIT**” means the equivalent values for various types of animals and poultry based upon production and production cycles.
- 5.189** “**LIVESTOCK HOUSING CAPACITY**” means the total maximum number of livestock that can be accommodated in a livestock facility at any one time.
- 5.190** “**LIVESTOCK OPERATIONS**” means land or buildings where the economic activity and/or land use is the raising of livestock constituting over two animal units.
- 5.191** “**LOADING SPACE**” means an off-street space or berth located on the same lot as a permitted use and used for the parking of a commercial vehicle loading and unloading merchandise or materials pertinent to such permitted use.
- 5.192** “**LOCAL SHOPPING CENTRE**” means one or more buildings or part thereof containing two or more separate permitted commercial uses with a maximum floor area of 7500 m², which is designed and maintained as a single integrated site, whether or not such shopping centre is situated upon one lot or two or more lots.
- 5.193** “**LOT**” means a parcel of land:
- (i) which is a whole lot as shown on a Registered Plan of Subdivision, but a Registered Plan of Subdivision for the purposes of this Section does not include a Registered Plan of Subdivision or part of a Registered Plan of Subdivision which has been deemed not to be a Registered Plan of Subdivision under a by-law passed pursuant to Section 50(4) of the Planning Act, R.S.O. 1990;
 - (ii) is a separate parcel of land without any adjoining lands being owned by the same owner or owners as of the date of passing of this By-law; or
 - (iii) the description of which is the same as in a deed for a parcel of land which has been severed pursuant to Section 53 of the Planning Act, R.S.O. 1990; or, the description of a remnant parcel which results from the

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adjacent parcel having received the necessary severance, but for the purpose of this paragraph, no parcel or tract of land ceases to be a lot by reason only of the fact that a part or parts of it has or have been conveyed to or acquired by the Town, the Regional Municipality of Niagara, Her Majesty the Queen in the Right of Ontario, or Her Majesty the Queen in the Right of Canada.

- 5.194** “**LOT, AREA**” means the total horizontal area within the lot lines of a lot, excluding the horizontal area of such lot covered with water or marsh.
- 5.195** “**LOT, CORNER**” means a lot having 2 or more street lines intersecting at an angle of not more than 135 degrees, provided that where the street lines of a lot are curved, the angle of intersection of such street lines shall be deemed to be the angle formed by the intersection of the tangents to the street lines, drawn through the extremities of the interior lot lines, and the corner of the lot shall be deemed to be that point on the street line nearest to the point of intersection of the said tangents.
- 5.196** “**LOT COVERAGE**” means that percentage of the lot area covered by all buildings and structures above ground level; but does not include that portion of the lot area which is occupied by a building, structure or a portion thereof and which building, structure or portion thereof is completely below ground level, and for the purpose of this Section, the lot coverage in each zone applies and shall be deemed to apply only to that portion of such lot that is located within said zone.
- 5.197** “**LOT DEPTH**” means:
- (i) the shortest horizontal distance between the rear lot line and the front lot line of a lot, where such lot lines are parallel;
 - (ii) the horizontal distance between the mid-point of the rear lot line and the mid-point of the front lot line of a lot, where such lot lines are not parallel; or
 - (iii) the horizontal distance between the mid-point of the front lot line and the point of intersection of the side lot lines of a lot where there is no rear lot line.
- 5.198** “**LOT FRONTAGE**” means the horizontal distance between the side lot lines measured along the front lot line, but where the front lot line is not a straight line or where the side lot lines are not parallel, the lot frontage is to be measured by a line 7.5 m back on a line perpendicular to a line joining mid points of front and rear lot lines.

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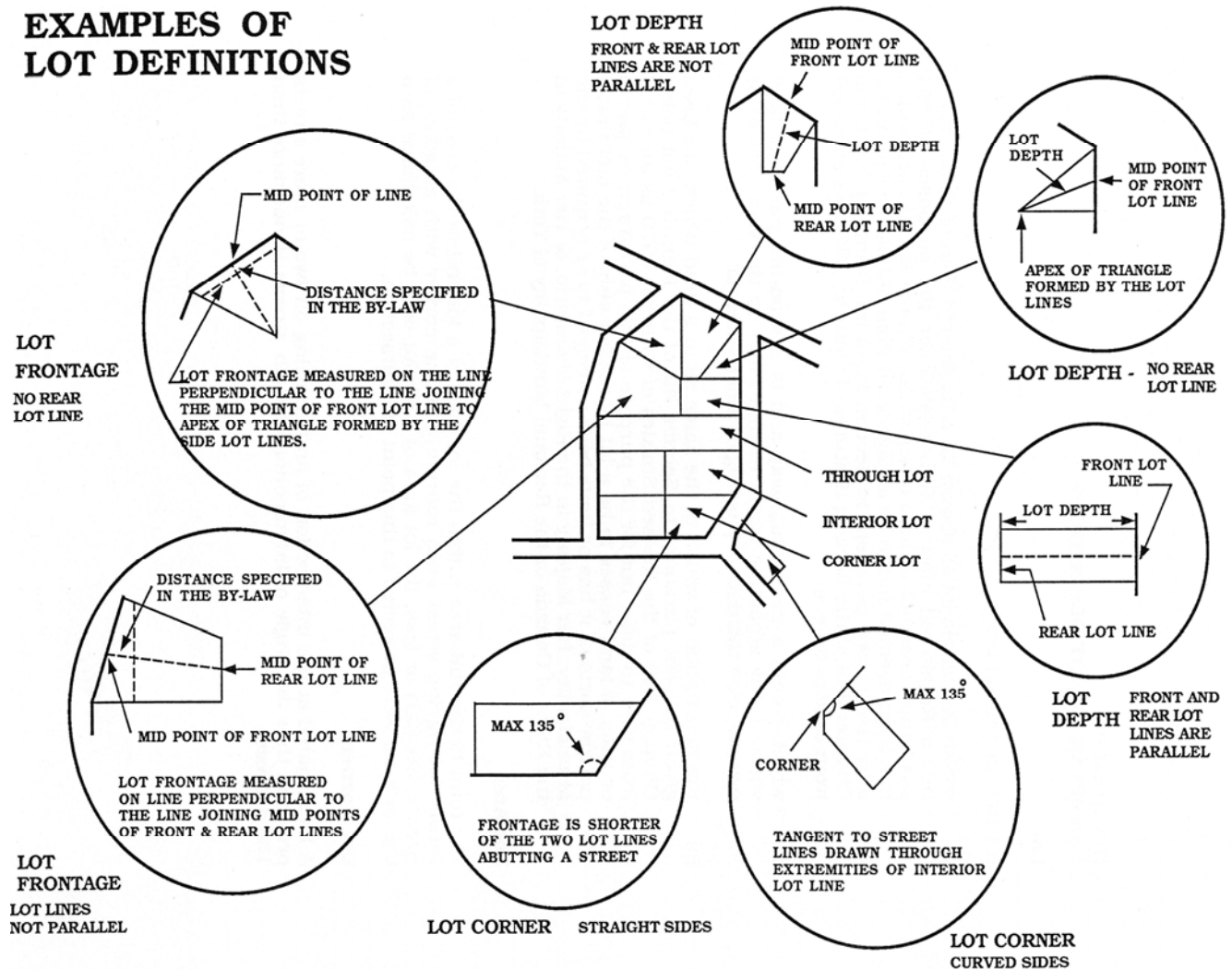
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- 5.199** “**LOT, INTERIOR**” means a lot other than a corner lot which is accessible from an improved street.
- 5.200** “**LOT LINE**” means any boundary line of a lot.
- 5.201** “**LOT LINE, EXTERIOR SIDE**” means a side lot line that is also a street line.
- 5.202** “**LOT LINE, FLANKING**” means the lot line that intersects the front lot line and divides the lot from a street.
- 5.203** “**LOT LINE, FRONT**” means the lot line that divides the lot from a public or private street , but;
- (i) in the case of a corner lot the shorter street line shall be deemed to be the front lot line and the longer street line shall be deemed to be a side lot line, but
 - (ii) in the case of a corner lot with two (2) street lines of equal length, the lot line that abuts the wider street, or abuts a Regional Road or Highway shall be deemed to be the front lot line, and in the case of both streets being under the same jurisdiction, or of the same width, the lot line where the principal access to the lot is provided shall be deemed to be the front lot line;
 - (iii) in the case of a through lot, the front lot line shall be deemed to be the street line where the principal access to adjoining lots is provided. If the through lot is a corner lot, the front lot line shall be deemed to be the street line where the principal access of the majority of lots on the street is provided.
- 5.204** “**LOT LINE, INTERIOR SIDE**” means a side lot line other than an exterior side lot line.
- 5.205** “**LOT LINE, REAR**” means in the case of a lot having 4 or more lot lines, the lot line farthest from and opposite to the front lot line, except that where a lot has less than 4 lot lines there shall be deemed to be no rear lot line.
- 5.206** “**LOT LINE, SIDE**” means the lot line that extends from the front lot line to the rear lot line or other side lot line.

EXAMPLES OF LOT DEFINITIONS



- 5.207 “**LOT, REGISTERED**” means a parcel of land described in a deed or other document legally capable of conveying land or shown as a lot or block on a registered plan of subdivision.
- 5.208 “**LOT, THROUGH**” means any interior lot having two or more street lines.
- 5.209 “**MAIN BUILDING**” means the building in which is carried on the main use for which the building lot is used and in a residential zone the dwelling is the main building.
- 5.210 “**MAIN USE**” means the principal use of the lot on which the building or structure is located.
- 5.211 “**MANUFACTURING**” means a building, structure or part thereof, with or without an accessory business office or an accessory warehouse, in which is carried on

any process, activity or operation pertaining to the making or remaking of an article or part thereof, including, but without limiting the generality of the foregoing, the following processes:

- (i) adapting for sale;
- (ii) altering;
- (iii) assembling;
- (iv) cleaning;
- (v) fabricating;
- (vi) finishing;
- (vii) packing;
- (viii) polishing;
- (ix) processing
- (x) ornamenting;
- (xi) refinishing;
- (xii) repairing;
- (xiii) restoring;
- (xiv) washing.

5.212 “**MARINA**” means a building, structure or place, containing docking facilities and located on a navigable waterway, where boats or boat accessories are stored, serviced, repaired, launched or kept for sale and where a full range of marine services may be provided including fuelling, and sewage pumpout facilities, showers, foodstuffs, laundry facilities, and restaurants.

5.213 “**MEDICAL MARIHUANA GROW AND PRODUCTION FACILITIES**” means a building or structure used for the cultivation, processing, testing, destruction, packaging and shipping of marihuana used for medical purposes as permitted under the federal government's Marihuana for Medical Purposes Regulations (MMPR) as amended from time to time, or any successors thereto.

5.214 “**MINIMUM DISTANCE SEPARATION FORMULA**” means the formula which, is used to calculate an appropriate distance between an existing or proposed livestock building and other uses on surrounding properties as set out in the Agricultural Code of Practice as amended or replaced from time to time.

5.215 “**MOBILE HOME**” means any vehicle so constructed that it is suitable for being attached to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle, notwithstanding that such vehicle is jacked up or that its running gear is removed, but not including any vehicle used or intended for the living, sleeping, or eating accommodation of persons therein for permanent year-round use.

5.216 “**MODEL HOME**” means a single detached dwelling, semi-detached dwelling, street townhouse dwelling, or a block townhouse dwelling, used in the interim for the sole purpose of an office and/or show room and/or sales centre to

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promote the sale of residential units within a draft approved plan of subdivision proposed for registration.

- 5.217** “**MONTE CARLO GAMING EVENTS**” means a gaming event at which any combination of games may be played in accordance with the provisions of the **Gaming Control Act S.O. 1992**.
- 5.218** “**MOTEL**” means a separate building or two (2) or more connected or detached buildings designed and used for the purpose of catering to the needs of the travelling public by furnishing sleeping accommodation with or without supplying food and/or other refreshments, and without limiting the generality of the foregoing, shall include a motor court and motor hotel.
- 5.219** “**MOTORSPORTS EMERGENCY COMMAND CENTRE**” means a building or part thereof that is for the exclusive use of emergency services providers to respond to emergencies that may arise during a Motorsports Speedway event.
- 5.220** “**MOTORSPORTS GARAGES AND SHOPS**” means buildings or parts thereof for the private use of race teams wherein Vehicles are stored, repaired and maintained.
- 5.221** “**MOTORSPORTS MUSEUM**” means a building or place where Vehicles, memorabilia and automotive parts are kept and displayed.
- 5.222** “**MOTORSPORTS OFFICES**” means a building or part thereof in which corporate and professional offices are permitted that are directly related to the Motorsports Speedway Complex.
- 5.223** “**MOTORSPORTS SPEEDWAY CENTRE OF EXCELLANCE**” means accredited post-secondary educational and professional facilities related to the research and development of automotive and motorsports technology and other accessory uses.
- 5.224** “**MOTORSPORTS SPEEDWAY COMPLEX**” means a paved oval and paved road course circuit for motor Vehicle racing including a 65,000 seat Grandstand and associated parking and accessory uses related thereto.
- 5.225** “**MOTORSPORTS SPEEDWAY INNOVATION COMPLEX**” means a repair, manufacturing, processing, testing and assembly complex for automotive prototypes and other accessory uses.
- 5.226** “**MOTOR VEHICLE BODY SHOP**”, means a building or structure used for the painting or repairing of the exterior and/or undercarriage of motor vehicle bodies and in conjunction with which there may be towing services and motor vehicle rentals for customers while the motor vehicle is under repair.

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- 5.227** “**MOTOR VEHICLE REPAIR SHOP**”, means an establishment for the repair or replacement of parts in a motor vehicle and without limiting the generality of the foregoing, shock absorbers, transmissions, gears, brakes, clutch assemblies, steering assemblies, radiators, heating or cooling systems, ignition systems, mechanical or electrical parts or systems, the installation of undercoating, engine tuning, lubrication and engine conversion or replacement, but does not include a motor vehicle body shop, an impounding yard, an automobile service station or gasoline bar.
- 5.228** “**MUNICIPAL**”, when used in reference to a lot, a building or a structure, means a lot, a building or a structure owned, occupied and used by the Corporation, the Regional Municipality of Niagara or any department, board, commission or agency thereof.
- 5.229** “**MUNICIPAL DRAIN**” means a watercourse or sewer which carries storm surface water and drainage and includes a municipal drain pursuant to the Drainage Act, R.S.O. 1990.
- 5.230** “**MUSIC INSTRUCTION**” means a type of formal instruction in playing a musical instrument or vocal training.
- 5.231** “**NANO-BEWERY**” means an establishment where a maximum of 3,000 hectolitres of malt liquor are produced annually having a maximum floor area of 409 square metres.
- 5.232** “**NON-COMPLYING**” means a permitted use, building or structure existing at the date of the passing of this By-law which does not comply with a zone requirement of the zone within which they are located.
- 5.233** “**NON-CONFORMING**”, when used in reference to a use, a lot, a building or a structure, means a use, a lot, a building or a structure which does not conform to one or more of the provisions of this By-law.
- 5.234** “**NON-HABITABLE ROOM**” means any room in a dwelling other than a habitable room including, but not so as to limit the generality of the foregoing, a laundry room, a pantry, a lobby, a communicating corridor, a stairway, a closet, a sun room, a veranda, a porch, a balcony, a private garage, an unfinished attic, a cellar, a basement, a boiler room and any space used for the service and maintenance of such dwelling or for vertical travel between storeys.
- 5.235** “**NURSERY**” means a use in which a variety of plants, including flowers, trees, shrubs and vegetables, are raised for transplanting and/or for sale.

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- 5.236** “**NURSERY SCHOOL**” means a day nursery within the meaning of the Day Nurseries Act, R.S.O 1990.
- 5.237** “**NURSING HOME**” means a building wherein lodging, meals, personal care, nursing services, and medical care and treatment are provided for gain or profit or as a charitable public service, and is licensed by the Province under the Long-Term Care Homes Act, 2007, S.O.2007.
- 5.238** “**OBNOXIOUS USE**” means a use with which is associated the emission of odour, smoke, dust, noise, gas, fumes, cinders, refuse matter or waterborne waste or which is associated with fly ash and foundry sand, or which is declared to be a noxious trade under The Public Health Act, R.S.O. 1990.
- 5.239** “**OPEN STORAGE**” means the storage of goods or materials in a yard, which goods are used by or produced by a permitted use and shall include the parking of more than one commercial vehicle or vehicle trailer for a period of more than 24 hours on any one lot.
- 5.240** “**OPERATING MACHINERY**” means an apparatus having one or more moving parts which are driven by other than muscular power, including air conditioners, electric motors, compressors and heat exchangers, and meets the following criteria:
- (i) is incidental to the main use or accessory use of the property; and
 - (ii) is connected to the main building by way of brackets, electric power lines, air ducts and similar connectors.
- 5.241** “**OUTDOOR PATIO**” means an outdoor area adjacent to or in any way associated with an eating establishment or tavern to be used or designed as an area for the sale and service of any alcoholic or other beverage or any food outdoors by that eating establishment or tavern.
- 5.242** “**OUTDOOR RECREATION**” means the use of land for playgrounds, picnic areas, , lawn bowling greens, tennis courts, and other similar uses.
- 5.243** “**OUTSIDE STORAGE**” means the storage of goods in the open air and in unenclosed portions of buildings which are open to the air on the sides.
- 5.244** “**OWNER**” means any person whose interest in a parcel of land is registered on title in the appropriate Land Registry Office.
- 5.245** “**OWNERSHIP**” has a corresponding meaning.

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- 5.246** “**PARK**” means an area of land consisting primarily of landscaped open space, including, but not limited to, a recreational playground, a golf course, a play area, a bowling green, a tennis or badminton court, a playfield and a conservation area, with or without accessory recreational buildings or structures thereupon.
- 5.247** “**PARK, PRIVATE**” means a park other than a public park.
- 5.248** “**PARK, PUBLIC**” (See “**PUBLIC PARK**”)
- 5.249** “**PARKING AISLE**” means a portion of a parking area which abuts, on one or more sides, parking spaces to which it provides access, and which is not used for the parking of vehicles.
- 5.250** “**PARKING AREA**” means an area which contains, and the main use of which is vehicular parking, whether or not such parking area is located within a structure.
- 5.251** “**PARKING GARAGE**” means a structure designed specifically for vehicle parking and where there are a number of floors or levels on which parking takes place.
- 5.252** “**PARKING SPACE**” means an area designed in accordance with Schedule “D” to this By-law, for the temporary parking or storage of motor vehicles. Such parking space must be capable of being used for the parking of motor vehicles and shall have access from and to a public highway for the purpose of parking or removing the vehicle without the necessity of moving any other vehicle.
- 5.253** “**PARKING SPACE, ACCESSIBLE**” means a parking space having minimum dimensions as required by the Corporation’s Accessible Parking By-law No. 2011-130, as amended or replaced from time to time.
- 5.254** “**PARKING SPACE, TANDEM**” means an area not less than 31.78 square metres measuring 2.74 metres by 11.6 metres exclusive of driveways or aiseways for the temporary parking and storage of two motor vehicles both of which utilize the same right-of-way to a public street.
- 5.255** “**PATIO**” means a roofless unenclosed area accessory to a dwelling, constructed at finished grade.
- 5.256** “**PERMITTED**” means “permitted by this By-law”.
- 5.257** “**PERSON**” means any human being, association, firm, partnership, corporation, agent or trustee, and the heirs, executors or other legal representatives of a person at law.

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- 5.258** “**PERSONAL SERVICE SHOP**” means a building or part thereof wherein a personal service is performed, including, but not limited to, a barber shop, a beauty salon, pet grooming service, shoe repair shop, dry cleaning outlet, laundromat, tailor or dressmaking shop, and photographic studio, but does not include a massage or body-rub parlour or any adult entertainment establishment.
- 5.259** “**PET DAY CARE ESTABLISHMENT**” means a building, structure or outdoor run, or any part thereof, in which the care and temporary accommodation of not more than ten (10) domestic household pets, in return for remuneration, is permitted but shall not include the overnight boarding of pets.
- 5.260** “**PHARMACY**” means a retail outlet that dispenses drugs by prescription, and may include the sale of non-prescription drugs and retail goods in conjunction with the dispensing of prescription drugs.
- 5.261** “**PLACE OF ENTERTAINMENT**” means a motion picture or other theatre, arena, auditorium, public hall, bowling alley, ice or roller skating rink, dance hall or music hall; but does not include any place of entertainment or amusement otherwise defined or classified herein.
- 5.262** “**PLACE OF WORSHIP**” means a church, chapel, temple, mosque, parish hall, and synagogue including offices for the administration of the religious institution, and convents, seminaries, monasteries, rectories, parsonages, and parish houses.
- 5.263** “**PLANTING STRIP**” means an area of landscaped open space located immediately adjacent to a lot line or portion thereof and on which is situated one or more of the following screening devices:
- (i) a continuous row of trees;
 - (ii) a continuous hedgerow of evergreens or shrubs;
 - (iii) a landscaped berm;
 - (iv) a wall; or
 - (iii) an opaque fence.
- 5.264** “**POINT OF INTERSECTION**” means the point at which two street lines abutting a corner lot intersect or if the two street lines meet in a curve then it is the point at which the productions of the two lot lines abutting the two streets intersect.
- 5.265** “**PORCH**” means a structure attached to a dwelling having a roof, but with walls that are open and unenclosed to the extent of at least 50% thereof except for removable screens and storm sashes or awnings, used as an outdoor living area.
- 5.266** “**PRINCIPAL**” means the primary use of land or of a building.”

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- 5.267** “**PRINTING ESTABLISHMENT**” means an establishment used for blueprinting, engraving, stereotyping, electro-typing, printing, or typesetting, and shall include a duplicating shop.
- 5.268** “**PRIVATE**” means “not public”.
- 5.269** “**PRIVATE CLUB**” means a building or part of a building used as a meeting place for members of an organization or an athletic, social or recreation club and includes a fraternal organization.
- 5.270** “**PRIVATE SCHOOL**” means a private school as defined in **the Education Act, R.S.O. 1990**.
- 5.271** “**PROFESSIONAL OFFICE**” means a building or part thereof in which a legal, medical, dental or other professional service is performed or consultation is given, including, but not limited to, the offices of a lawyer, architect, surveyor, engineer or an accountant, but does not include a personal service shop, spa service, business office, veterinarian's clinic, animal hospital or shelter, a body-rub parlour or any adult entertainment establishment.
- 5.272** “**PUBLIC**” when used in reference to a building, structure, use or lot, means a building, structure, use or lot used by a public agency to provide a service to the public.
- 5.273** “**PUBLIC AGENCY**” means:
- (i) the Government of Canada, the Government of Ontario or any municipal corporation;
 - (ii) any ministry, department, commission, corporation, authority, board or other agency established from time to time by the Government of Canada, the Government of Ontario or any municipal corporation;
 - (iii) any public utility;
 - (iv) any railway company authorized under **The Railway Act, R.S.O., 1950**;
 - (v) the Niagara Parks Commission;
 - (vi) the Canadian Niagara Power Inc. or;
 - (vii) the Buffalo and Fort Erie Public Bridge Authority (“Peace Bridge Authority”).

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- 5.274** “**PUBLIC PARK or PUBLIC OPEN SPACE**” means development of public land specifically designed or reserved for the general public for active or passive recreational use and includes all natural and man-made landscaping, facilities, playing fields, building and other structures that are consistent with the general purposes of public parkland and open space.
- 5.275** “**PUBLIC SCHOOL**” means a school under the jurisdiction of a Board as defined in **the Education Act, R.S.O., 1990**.
- 5.276** “**PUBLIC STORAGE**” means a building or buildings containing separate, individual self-storage units divided from the floor to the ceiling by a wall with an independent entrance from the exterior of the building, designed to be rented or leased on a short-term basis to the general public for private storage of personal goods, materials and equipment.
- 5.277** “**PUBLIC UTILITY**” means:
- (i) any agency, corporation, board or commission providing electricity, gas, steam, water, telegraph, telephone, cellular telephone, cable television, transportation, drainage or sewage or waste collection and disposal services to the public; or
 - (ii) a use pertaining to any such agency, corporation, board or commission.
- 5.278** (a) “**QUARRY**” or “**PIT**” means any pit or excavation made for the removal of any soil, earth, clay, marl, sand, stone, gravel or rock for commercial purposes, or to supply material for construction, industrial or manufacturing purposes, but shall not include an excavation incidental to the erection of a building or structure for which a building permit has been granted by a corporation, or an excavation incidental to the construction of any public works.
- (o) “**WAYSIDE PIT or QUARRY**” means a temporary pit or quarry opened and used by a public road authority solely for the purpose of a particular project or contract of road construction and not located on the road right-of-way.
- 5.279** “**RACETRACK**” means an establishment licensed or permitted by the Provincial Government to conduct horse racing events and to permit parimutuel wagering.
- 5.280** “**REAR LOT LINE**” - (See “**LOT LINE, REAR**”)
- 5.281** “**REAR YARD**” - (See “**YARD, REAR YARD**”)
- 5.282** “**RECREATIONAL USES**”

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- (i) means the use of land for parks, playgrounds, tennis courts, lawn bowling greens, indoor and outdoor skating rinks, athletic fields, golf courses, picnic areas, swimming pools, day camps, community centres, and all similar uses, together with necessary and accessory buildings and structures, but
 - (ii) does not include a track for the racing of animals, motor vehicles, ski-doo's or motorcycles.
- 5.283** "RECREATIONAL VEHICLE", (See "VEHICLE, RECREATIONAL")
- 5.284** "REDEVELOPMENT" means the removal of buildings or structures from land and the construction or erection of other buildings or structures thereupon.
- 5.285** "REFRESHMENT ROOM" means a building or part thereof in which alcoholic or non-alcoholic beverages and related refreshments other than meals are offered or kept for retail sale to the public for immediate consumption therein.
- 5.286** "REGIONAL MUNICIPALITY" means The Corporation of the Regional Municipality of Niagara.
- 5.287** "REGIONAL SHOPPING CENTRE" means one or more buildings or part thereof containing two or more separate permitted commercial uses with a minimum floor area of 7500 m², which is designed and maintained as a single integrated site, whether or not such shopping centre is situated upon one lot or two or more lots.
- 5.288** "RELIGIOUS INSTITUTION", means "PLACE OF WORSHIP"
- 5.289** "RENOVATION" means the repair and restoration of a building to good condition, but shall not include its replacement.
- 5.290** "REQUIRED" means "required by this By-law".
- 5.291** "RESIDENTIAL EMERGENCY HOSTEL" means development sponsored or supervised by a public authority or non-profit agency for the purpose of providing temporary accommodation for persons requiring immediate shelter and assistance for a short period of time. **(BY-LAW 138-92)**.
- 5.292** "RESIDENTIAL, NON-FARM" means a dwelling unit not located on the same lot as the subject farm.
- 5.293** "RESIDENTIAL RETIREMENT HOME" shall mean a residence containing individual bedroom units without food preparation facilities. The home shall be used for a long-term residence where nursing care is available on a continuous basis and where central dining facilities are provided. The dining facilities are not

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intended for use by the general public and the food prepared therein is not offered for retail sale. The home shall include auxiliary uses such as indoor and outdoor recreational amenities.

- 5.294** “**RESTAURANT**” means a building or part thereof where food and beverages are prepared and offered for retail sale to the public for immediate consumption either on or off the premises, and including any outdoor patio adjacent to or connected therewith, but does not include a refreshment room or any building or part thereof where pre-packaged foods or beverages requiring no further preparation before consumption are offered for sale.
- 5.295** “**RESTAURANT, DRIVE-IN**” means any restaurant where patrons consume food and drink within vehicles parked on the same lot therewith.
- 5.296** “**RESTAURANT, EAT-IN**” means any restaurant which contains a dining room other than a take-out restaurant or a drive-in restaurant.
- 5.297** “**RESTAURANT, TAKE-OUT**” means a restaurant other than a drive-in restaurant which does not contain any facilities for the consumption of food therein.
- 5.298** “**RETAIL STORE**” means a building or part thereof in which goods, wares, merchandise, substances, articles or things are stored, offered or kept for retail sale *or rental* to the public, including, but not limited to , a neighbourhood store, a bake shop, candy kitchen, farm product outlet, custom print shop not exceeding 180 sq. m in net floor area, and a bulk retail outlet other than a retail lumber yard, but does not include an automotive use or a building or part thereof containing any other use defined herein.
- 5.299** “**RIDING STABLE**” means land and buildings used to house horses and for their exercise and training and may include a school, boarding stables, tack shop and other related uses.
- 5.300** “**ROAD**” - (See “**STREET**”)
- 5.301** “**ROOF**” means the upper covering of a building or structure which is supported by walls or columns.
- 5.302** “**ROOMING HOUSE**” means any house or building or portion thereof in which the proprietor resides and occupies at least 10% of the floor space as his residence and supplies for hire or gain, to more than one other person, lodging, with or without meals, in rooms furnished by the proprietor, with necessary furnishings, but shall not include a hotel or apartment house.

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- 5.303** “**SALVAGE YARD**” means a lot, building or structure used for wrecking, dismantling, storing or selling used goods, wares or materials including, but not so as to limit the generality of the foregoing, rags, bones, bottles, metals, clothing, furniture, paper, machinery, building materials, vehicles and parts thereof.
- 5.304** “**SCHOOL**” means a school under the jurisdiction of a Board as defined in **the Education Act, R.S.O. 1990**, a college, a university or any other educational establishment including, but not necessarily restricted to, a nursery school or a boarding school having accessory dormitory facilities.
- (a) “**COMMERCIAL SCHOOL**” means a school operated by one or more persons for gain or profit.
- 5.305** “**SCIENTIFIC OR MEDICAL LABORATORY**” means a building or part thereof wherein scientific or medical experiments, tests or investigations are systematically conducted, and where drugs, chemicals, glassware or other substances or articles pertinent to such experiments, tests or investigations are manufactured or otherwise prepared for use on the premises.
- 5.306** “**SECONDARY USE**” means uses secondary to the main use of the property.
- 5.307** “**SENSITIVE LAND USE**” means any building or associated amenity area (indoor or outdoor) where humans may be adversely affected by other adjacent industrial type land uses. These may include but are not limited to day care facilities, hospitals, churches, schools, playgrounds, residential uses etc.
- 5.308** “**SERVICE SHOP**” means a building or part of a building, not otherwise defined or classified herein, and whether conducted in conjunction with a retail store or not, for the servicing or repairing of articles, goods or materials, and in which no product is manufactured.
- 5.309** “**SETBACK**” means the shortest horizontal dimension of a yard between the street line of a lot, the rear lot line, or the side lot lines and the nearest part of any building or structure on such lot, and includes the front yard depth and the exterior side yard width of a lot. Except where the side lot lines are parallel to within 5 degrees of one another, and the front or rear lot line is not perpendicular to the side lot lines, the setback from the front or rear lot line shall be measured along a plane which is parallel to the side lot lines to the nearest point of the building.
- 5.310** “**SEWER SYSTEM, PUBLIC SANITARY**” means a system of underground conduits, operated by the Corporation, by another municipality or by the Ministry of the Environment, which carries sewage to a sewage treatment facility.

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- 5.311** “**SEWER SYSTEM, STORM**” means a system of conduits and ditches which carries storm surface water and storm drainage, but which does not carry sewage or industrial waste.
- 5.312** “**SHIPPING /CARGO CONTAINER**” means a standardized steel-framed, steel skinned transportation box designed to facilitate the handling, loading, of goods and materials for storage aboard a ship or other transportation system and includes a metal framed container intended to be used for the storage of goods and materials that is constructed to be easily moved from one location to another. For the purpose of this definition, a shipping/cargo container does not have wheels and is not a vehicle body.
- 5.313** “**SHOWROOM**” means a building or part thereof where samples are displayed and orders taken for delivery of goods, wares and merchandise, and includes the premises of a wholesale merchant.
- 5.314** “**SIDE LOT LINE**” - (See “**LOT LINE SIDE**”)
- 5.315** (a) “**SIGN**” means a name, identification, description, device, display or illustration which is affixed to or represented directly or indirectly upon a building, structure or lot and which directs attention to an object, product, place, activity, person, institute, organization or business.
- (b) “**LEGAL SIGN**” means a sign conforming to all legislation, regulations or by-laws of the Province of Ontario, the Niagara Parks Commission, the Region of Niagara and the Town of Fort Erie regulating signs.
- 5.316** “**SIGHT TRIANGLE**” means the triangular shape formed by street lines of a corner lot where such lot is located at the intersection of two or more streets and the line drawn from a point in one street to a point in the other street, each such point being 10.5 metres from the point of intersection of the streets measured along the said street lines provided that where the two streets do not intersect at a point, the point of the intersection of the street lines shall be deemed to be the intersection of the projected tangents to the street lines drawn through the extremities of the interior lot lines. Such triangular shape may also be called a daylighting triangle.
- 5.317** “**SITE PLAN AGREEMENT**” or “**DEVELOPMENT AGREEMENT**” means any agreement entered into by an owner of land and the Corporation pursuant to a Site Plan Control by-law.
- 5.318** “**SITE PLAN CONTROL AREA**” means an area of land designated by a Site Plan Control By-law as a site plan control area pursuant to Section 41 of the **Planning Act, R.S.O. 1990**.

- 5.319** “**SITE PLAN CONTROL BY-LAW**” means any by-law of the Corporation passed pursuant to Section 41 of **the Planning Act, R.S.O. 1990**.
- 5.320** “**SOFT DRINK MANUFACTURING ESTABLISHMENT**” means a building, structure or part thereof wherein syrups for soft drink beverages are manufactured, or where soft drink beverages are mixed, bottled, and distributed, but does not include a refreshment room, a restaurant or a retail store.
- 5.321** “**SPA SERVICES**” means a building or part thereof wherein a spa service is performed, including, but not limited to massage treatments by a registered massage therapist, beauty treatments, and alternative therapies.
- 5.322** “**STOOP**” or “**SUNDECK**” means a roofless, unenclosed structure with or without steps, consisting of a platform and connecting to an exterior door on the ground floor of a dwelling.
- 5.323** “**STOREY**” means the portion of a building other than an attic, basement or cellar, between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, that portion between the surface of such floor and the ceiling above it.
- (a) “**FIRST STOREY**” or “**GROUND FLOOR**” means the storey having its floor level closest to finished grade and its ceiling at least 2 m above finished grade.
- (b) “**SECOND STOREY**” or “**SECOND FLOOR**” means the storey directly above the first storey.
- (c) “**STOREY, ONE-HALF**” means the portion of the building situated wholly or in part within the roof and in which there is sufficient space to provide a height between finished floor and finished ceiling of at least 2.3 m (7.54 ft) over a floor area equal to less than fifty per cent (50%) of the areas of the floor next below.
- 5.324** “**STREET ALLOWANCE**” means land under the jurisdiction of the Corporation, The Regional Municipality or the Province of Ontario for the purpose of providing a street.
- 5.325** “**STREET, IMPROVED**” means any street that is under the jurisdiction of and maintained year-round by the Corporation, the Regional Municipality or the Province of Ontario.
- 5.326** “**STREET LINE**” means a lot line dividing a lot from a street and is the limit of the street allowance.

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- 5.327** “**STREET, PRIVATE**” means a private lane or right-of-way.
- 5.328** “**STREET, PUBLIC**” means a public highway or public road under the jurisdiction of the Corporation, the Regional Municipality, the Province of Ontario, or the Niagara Parks Commission and includes any highway as defined by the Municipal Act 2001 S.O. 2001.
- 5.329** “**STREET WIDTH**” means the horizontal distance between the street lines of a street, measured along a line perpendicular to the said street lines.
- 5.330** “**STRUCTURE**” means anything constructed or erected, the use of which requires location on or in the ground, or attached to something located on or in the ground, but does not include a septic system, the permanent way of a railway, patios, decks, steps or porches less than 0.5 metres above grade, utilities or any paved surface located directly on the ground.
- 5.331** “**STUDIO**” means the workshop or atelier of an artist or a place for instruction and experimentation in physical fitness activities, martial arts or one of the performing arts including but not limited to acting, singing, dancing, playing musical instruments.
- 5.332** “**SUITE**” means a single room or series of rooms of complementary use, operated under a single tenancy, and includes dwelling units, individual guest rooms in motels, hotels, boarding houses, rooming houses and dormitories as well as individual stores and individual or complementary rooms for business and personal service occupancies.
- 5.333** “**SUN DECK**” means a roofless, unenclosed structure, accessory to a dwelling, consisting of a platform raised above finished grade, with or without steps.
- 5.334** “**SUN ROOM**” means a porch or veranda, or part thereof, which is fully enclosed by walls containing windows, the glazed area of each wall being not less than one-third of the area of such wall between the platform and roof of said porch or veranda.
- 5.335** “**SUPERMARKET**” means a building or part of a building wherein food and other merchandise are kept for sale at retail to the general public and which operates on a self-service, cash and carry basis and may include facilities for parcel pick-up.
- 5.336** “**SWIMMING POOL**” means any body of water permanently or temporarily located outdoors, contained by artificial means and used and maintained for the purpose of swimming, wading, diving or bathing.

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- 5.337** “**TAILOR OR DRESSMAKING SHOP**” means a building or part thereof which is used primarily for the custom manufacture, alteration or repair of articles of clothing for individual clients, but does not include any establishment primarily engaged in the retail sale of clothing manufactured elsewhere, or the manufacture of clothing for distribution to retail stores.
- 5.338** “**TAVERN**” means a building or place having as its primary purpose the sale and consumption of alcoholic beverages on the premises only, including a lounge, beverage room, and public house licensed under the Liquor Licence Act R.S.O. 1990, but shall exclude a dining room, restaurant, dining lounge or club where full course meals are served.
- 5.339** “**TAXI ESTABLISHMENT**” means a building or premises where a taxi company receives calls and dispatches vehicles.
- 5.340** “**TEMPORARY USE**” means a use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.
- 5.341** “**THEATRE**” means a building or part of a building devoted to showing motion pictures, or for dramatic, musical or live performances.
- 5.342** “**TILLABLE ACRES**” means the total area of land including pasture that can be worked or cultivated.
- 5.343** “**TOURIST CAMP**” means the use of land for the location of tourist trailers or tents for the purposes of temporary accommodation.
- 5.344** “**TOWN**” means the Corporation of the Town of Fort Erie.
- 5.345** “**TRADESPERSONS SHOP**” means a place in which is provided to the public a non-personal service or trade including a plumber’s shop, painter’s shop, carpenter’s shop, machine shop, electrician’s shop, contractor’s shop, or other like shop which provides an installation service, but does not include a personal service shop, spa services, contractor’s yard, vehicle sales and rental establishment, body-rub parlour or adult entertainment establishment.
- 5.346** “**TRAILER**” means a trailer as defined in the Highway Traffic Act R.S.O. 1990, and shall further be deemed to mean and include recreational and non-recreational vehicles defined as follows:
- (1) **Recreational Vehicles:**
 - (a) “**Permanently Mounted Camper**” – means a vehicular, portable structure designed as a temporary dwelling for travel, recreational or vacation use, mounted directly to the chassis of a vehicle.

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- (b) **“Pick-up Camper”** – means a vehicular, portable structure designed as a temporary dwelling for travel, recreational or vacation use to be transported in the box of a pick-up truck.
 - (c) **“Tent Trailer”** – means a vehicular, portable structure designed as a temporary dwelling for travel, recreational or vacation use with or without a canvas top.
 - (d) **“Travel Trailer”** – means a vehicular portable structure built on a chassis, designed as a temporary dwelling for travel, recreational or vacation use, permanently identified “Travel Trailer” by the manufacturers of the trailer, factory equipped for the road with a body width not exceeding 2.5 m and a body length not exceeding 9 m, of which the gross weight will not exceed 2,100 kg.
 - (e) **“Utility Trailer”** - means a vehicular, portable structure designed for the hauling of goods, materials, road vehicles or boats, atv’s snowmobiles jet skis and the like, having a width not exceeding 2.5 m, a height not exceeding 1.25 m and a length not exceeding 7.2 m, and in no case used for commercial purposes.
- (2) **Non-Recreational Vehicles:**
- (a) **“Industrial and Commercial Trailer”** - means a unit having the basic construction of a mobile home or travel trailer that has been designed or modified for other than recreation usage, such as a mobile library, portable offices, construction or residential offices, bunk offices, display unit or mobile clinic.
 - (b) **“Mobile Home”** means a factory-built, detached structural unit designed to be and capable of being transported after fabrication, on its own chassis and wheel system, to a lot or site, and which is suitable for year-round occupancy in a similar fashion as a dwelling unit, except for minor and incidental unpacking and assembly operations, placement on defined supporting structures and connection to utilities.
- 5.347 “TRAILER PARK AND CAMP”** means an area of land predominantly used for seasonal occupancy of recreational vehicles including tents, and includes all accessory building used incidentally to the operation of a trailer park such as park administration offices, recreation facilities, service and utility buildings, laundry facilities and storage lockers.
- 5.348 “TRANSPORT TRUCK TERMINAL”** means a place where trucks, trailers, or containers are loaded or unloaded, stored or parked for remuneration or from which trucks or containers are dispatched as common carriers or where goods

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are stored temporarily for further shipment or where buses or other fleet vehicles are stored or parked.

5.349 “**TRANSPORTATION DEPOT**” means a place used for the dispatch, storage or maintenance of vehicles, but does not include a motor vehicle repair shop or a vehicle sales and rental establishment.

5.350 “**U-BREW-YOUR-OWN ESTABLISHMENT**” means a premises where the public can prepare their own beer and/or wine in a controlled setting.

5.351 “**UNDERTAKING ESTABLISHMENT**” means a building or part thereof wherein dead human bodies are preserved or otherwise prepared for interment.

5.352 “**USE**”

- (i) when used as a noun, the purpose for which a lot, building or structure, or any combination or part thereof, is designed, arranged, occupied or maintained; or
- (ii) when used as a verb, to put to such purpose.

5.353 “**VEHICLE**” means a passenger automobile or other motor vehicles, a boat, a farm implement, a mobile home, a motor home, a snowmobile, a trailer, or any other device which is capable of being drawn, propelled or driven by any kind of power, and includes a recreational vehicle and a commercial vehicle as defined.

(a) “**VEHICLE BODY**” means a body of vehicle meaning any device which was at one time capable of being drawn, propelled or driven by any kind of power, and includes a recreational vehicle and a commercial vehicle as defined

(b) “**VEHICLE, COMMERCIAL**” - (See “**COMMERCIAL MOTOR VEHICLE**”).

(c) “**VEHICLE, RECREATIONAL**” means a recreational vehicle as defined in Section 5.338 (1) and also includes a boat, all-terrain vehicle, seadoo, snowmobile, motorcycle, or other similar device.

5.354 “**VEHICLE BODY SHOP**” (See “**MOTOR VEHICLE BODY SHOP**”).

5.355 “**VEHICLE SALES OR RENTAL ESTABLISHMENT**” means an establishment having as its main use the sale, rental or leasing of vehicles, with or without an accessory vehicle repair shop or an accessory gasoline bar.

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- 5.356** “**VETERINARIAN'S CLINIC**” means a building or part thereof with or without related structures wherein animals of all kinds are treated or kept for treatment by a registered veterinarian.
- 5.357** “**VIDEO OUTLET SALES AND RENTAL SHOP**” means a business for the sale or rental of video programs and related accessories.
- 5.358** “**WALL, BUILDING**” means any part of a building or structure which is designed to support a roof over a fully or partly enclosed space and shall include pillars and columns.
- 5.359** “**WALL, COMMON**” means a wall that divides a building or structure into two or more areas for the purposes of separate use.
- 5.360** “**WALL, MAIN**” means the exterior front, side or rear wall of a building, and all structural members essential to the support of a fully or partly enclosed space or a roof. For setback purposes any required yard shall be measured from the exterior face of the foundation above grade. Where no foundation above grade exists the setback shall be measured from the main wall.
- 5.361** “**WAREHOUSE**” means a building or part thereof which is used primarily for the housing, storage, adapting for sale, packaging or wholesale distribution of goods, wares, merchandise, foodstuff, substances, articles or things, and includes the premises of a warehouseman, but does not include a fuel storage tank except as an accessory use.
- 5.362** “**WATERCOURSE**” means an identifiable depression in the ground in which a flow of water regularly or continuously occurs.
- 5.363** “**WATER SUPPLY**” means a distribution system of underground piping and related storage, including pumping and purification appurtenances owned and operated by the Regional Municipality of Niagara and/or the Ontario Water Resources Commission for public use.
- 5.364** “**WATER SYSTEM, PUBLIC**” means a water distribution system consisting of piping, pumping and purification appurtenances and related storage, owned and operated by the Corporation, another municipality, or the Ministry of the Environment.
- 5.365** “**WETLANDS**” means lands that are seasonally or permanently covered by shallow water, as well as lands where the water table is close to or at the surface. In either case the presence of abundant water has caused the formation of hydric soils and has favoured the dominance of either hydrophytic plants or water tolerant plants. The four types of wetlands are swamps, marshes, bogs and fens. Periodically soaked or wet lands being used for agricultural purposes

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which no longer exhibit wetland characteristics are not considered to be wetlands for the purposes of this definition.

5.366 “**WHOLESALE**” means the sale of goods in large quantities to retailers and other wholesalers rather than to consumers directly.

5.367 “**WIND ENERGY SYSTEM, SMALL**” means a wind energy conversion system consisting of a wind turbine, a tower and associated control or conversion electronics which has a rated capacity of not more than 100kw and which is intended to primarily reduce on-site consumption of power utility.

5.368 “**WRECKING YARD**” - (See “**SALVAGE YARD**”)

5.369 “**YARD**” means an area of land which:

(i) is appurtenant to and located on the same lot as a building or structure;
and

(ii) is open, uncovered and unoccupied from the ground to the sky, except for such accessory buildings, structures or other uses as are specifically permitted thereon in this By-law.

(a) “**EXTERIOR SIDE YARD**” or “**FLANKING YARD**” means a side yard immediately adjoining a street or abutting a reserve on the opposite side of which is located a street.

(b) “**FRONT YARD**” means a yard extending across the full width of a lot between the front lot line of such lot and the nearest part of any building or structure on such lot.

(c) “**FRONT YARD DEPTH**” means the shortest horizontal dimension of a front yard between the front lot line of a lot and the nearest part of any building or structure on such lot.

(d) “**INTERIOR SIDE YARD**” means a side yard other than an exterior side yard.

(e) “**REAR YARD**” means a yard extending across the full width of a lot between the rear lot line of such lot or, where there is no rear lot line, the junction point of the side lot lines, and the nearest part of any building or structure on such lot.

(f) “**REAR YARD DEPTH**” means the shortest horizontal dimension of a rear yard between the rear lot line of a lot or, where there is no rear lot line, the

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junction point of the side lot lines, and the nearest part of any building or structure on such lot.

(g) **"REQUIRED YARD"** means that part of a yard which:

(i) is located adjacent to a lot line;

(ii) has the minimum yard depth or yard width required by this by-law;
and

(iii) does not contain any buildings, structures or uncovered surface parking areas except where specifically permitted elsewhere in this By-law.

(h) **"SIDE YARD"** means a yard extending from the front yard to the rear yard of a lot and from the side lot line of such lot to the nearest part of any building or structure on such lot.

(i) **"SIDE YARD WIDTH"** means the shortest horizontal dimension of a side yard between the side lot line of a lot and the nearest part of any building or structure on such lot.

5.370 **"YOUTH HOSTEL"** means a building or part thereof, other than a boarding house dwelling, wherein temporary accommodation, with or without meals, is provided for the travelling public in rooms without cooking facilities under the auspices of the Canadian Hostel Association or any affiliated non-profit community organization.

5.371 **"ZONE"** means a designated area of land use shown on Schedule "A attached to this Zoning By-law.