

THE CORPORATION OF THE VILLAGE OF BURK'S FALLS

BY-LAW NO. 1 - 2012 Amended By-Law NO. 5-2000

General Standards Zoning By-law to regulate the height, bulk, location, size, floor area, spacing, character and use of buildings or structures and to regulate the minimum frontage and area of a parcel of land within defined areas of the Village of Burk's Falls.

WHEREAS the Council of the Corporation of the Village of Burk's Falls has the authority to regulate the location and use of buildings or structures in the Village of Burk's Falls;

AND WHEREAS the Council of the Village of Burk's Falls now deems it desirable and in the public interest to enact a Zoning By-law under Section 34 of The Planning Act, R.S.O. 1993, which will serve to regulate the location and size of buildings and structures within the boundaries of the Village of Burk's Falls;

NOW THEREFORE the Council of the Corporation of the Village of Burk's Falls, enacts as follows:

SECTION 1.0 TITLE

1.1 This By-law may be cited as "The General Standards Zoning By-law of the Village of Burk's Falls".

SECTION 2.0 APPLICATION AND INTERPRETATION

2.1 Lands Subject to By-law

This By-law applies to all the lands within the Corporation of the Village of Burk's Falls in the District of Parry Sound SAVE AND EXCEPT those areas with existing site specific Zoning By-laws as of the date this By-law comes into effect.

2.2 Conformity with By-law

No building or structure shall hereafter be erected or altered, nor shall the use of any building, structure or lot hereafter be changed, in whole or in part, except in accordance with the provisions of this By-law.

2.3 Existing Uses Continued

Nothing in this By-law shall prevent use of any lot, building or structure for any purpose prohibited by this By-law if such lot, building or structure was lawfully used for such purpose on the date of passing of this By-law, so long as it continues to be used for that purpose.

2.4 Building Permit Issued

Nothing in this By-law shall prevent the erection or use of any building or structure for a purpose prohibited by this By-law if the plans for such building or structure were approved by the Chief Building Official prior to the date of passing of this By-law, provided that:

- i) when the building or structure is erected, it shall be used and shall continue to be used only for the same purpose for which the said building or structure was intended when such building permit was issued; and
- ii) the erection of such building or structure is commenced within one year of the date of passing of this Bylaw and is completed within six months after the erection thereof is commenced and provided such building permit has not been revoked under The Building Code Act.

2.5 Compliance with Other Restrictions

In their interpretation and application, the provisions of this By-law shall be held to the minimum requirements adopted for the promotion of the public health, safety, convenience or general welfare. Whenever the requirements of this By-law are at variance with the requirements of any other by-law, the most restrictive, or the Bylaw imposing the higher standards shall govern and apply.

Nothing in this By-law shall be construed to exempt any person from complying with the requirements of any By-law of the Municipality or from any law of the Province of Ontario or Canada. Nothing in this By-law shall prevent the use of any land for the erection of buildings or structures, or the installation of other facilities essential to the operation of public utilities as defined in The Public Utilities Corporation Act, provided that any such use, building or structure shall be in compliance with the relevant provisions of this By-law.

2.6 Interpretation of By-law

2.6.1 Definitions

In this By-law, unless the context requires otherwise, the definitions and interpretations set out in Section 3 hereof shall apply.

2.6.2 Singular and Plural Words and Genders

In this By-law, unless the context requires otherwise:

- i) words used in the singular number include the plural;
- ii) words used in the plural include the singular number; and
- iii) words used in the masculine gender include the feminine.

2.6.3 Shall is mandatory

In this By-law, the word 'shall' is mandatory.

2.6.4 Use and Occupancy

In this By-law, unless the context requires otherwise:

- i) the verb "use" shall include "design to be used", "arrange to be used" and "permit to be used"; and
- ii) the verb "occupy" shall include "design to be occupied", and "permit to be occupied".

2.6.5 Imperial Measurement

All dimensions, measurements, areas, yards and setbacks are given in Imperial measurements in this By-law. General metric conversions are provided in brackets only for the assistance of the reader and do not form a part of this By-law. The imperial measurements only shall be used in the legal interpretation of this By-law.

SECTION 3.0 DEFINITIONS

1. ACCESSORY: When used to describe a use, building or structure means a use, a building or a structure that is incidental, subordinate and exclusively devoted to a main use, building or structure and located on the same lot.

2. BUILDING: Any structure consisting of walls and a roof, which is used or intended to be used for the shelter, accommodation or enclosure of persons, animals or chattels, and includes any structure defined as a building in The Building Code Act, but does not include any vehicle as defined herein.

3. COMMERCIAL: The use of land, building or structure for the purpose of buying and selling commodities and supplying of services as distinguished for such uses as manufacturing or assembling of goods, warehousing, transport terminals, construction and other similar uses.

4. DWELLING, SINGLE DETACHED: A building or part of a building occupied or capable of being occupied as a home, residence or sleeping place of one or more persons either continuously, permanently, temporarily or transiently.

5. EXISTING: Existing as of the date of the passing of this By-law by Council.

6. EXTRACTIVE INDUSTRIAL: A pit or a quarry.

7. HIGH WATER MARK: The present high watermark.

8. INDUSTRIAL: The use of land, building or structures for the manufacturing, processing, fabricating or assembly of raw materials or goods, warehousing or bulk storage of goods and related accessory uses.

9. INSTITUTIONAL: The use of land, buildings or structures for a public or non-profit purpose and without limiting the generality of the foregoing, may include such uses as schools, places of worship, indoor recreation facilities, community centre's public hospitals and government buildings.

10. LOT: A parcel of land (i) described in deed or other document legally capable of conveying land; or (ii) shown as a lot or block on a registered plan of subdivision.

11. LOT AREA: The total horizontal area within the lot lines of a lot.

12. LOT COVERAGE: The percentage of the lot area covered by the ground floor area of all buildings or structures on the lot.

13. LOT FRONTAGE: The horizontal distance between the side lot lines measured at the front lot line and where such lot lines are not parallel, the lot frontage shall be the distance between the side lot lines measured on a line parallel to the front lot line and 7.5 metres distant therefrom.

14. LOT LINE: A boundary of a lot.

15. LOT LINE, FRONT: The lot line that divides the lot from the public road upon which it abuts except in case of a lot with water frontage, in which case the front lot line shall be taken to be the normal or ordinary high water mark on the water frontage or the landward boundary of any original shore road allowance owned by the Crown or the Municipality, whichever line shall be closer to the opposite boundary of the lot.

16. LOT LINE, REAR: The lot line furthest from or opposite to the front lot line.

17. LOT LINE, SIDE: A lot line other than a front or rear lot line.

18. MIXED-BUILDING USE: The use of a building may consist of commercial, employment and/or institutional uses with residential uses. Generally, the commercial, employment and/or institutional uses shall be located on the ground floor, with residential uses located in the upper story(ies) of the building.

19. PUBLIC ROAD: A public highway that is a principal means of access to abutting lots that is under the jurisdiction of the Province of Ontario or the Village of Burk's Falls;

20. RESIDENTIAL: The use of a building or structure or parts thereof as a dwelling.

21. STRUCTURE: Anything that is man-made that is fastened to or into the earth or another structure or rests on the earth by its own mass or is attached to a building.

22. WATER SETBACK: The straight line horizontal distance from the high water mark of a watercourse or waterbody to the nearest part of an excavation, building, structure or open storage use on the property.

23. YARD: A space open from the ground to the sky on a lot on which a building is situated which space is unoccupied except for vegetation and such accessory buildings as are specifically permitted in this Bylaw.

24. YARD, FRONT: A yard extending across the full width of the lot between the front lot line and the nearest main building or structure on the lot.

25. YARD, REAR: A yard extending across the full width of the lot between the rear lot line and the nearest main walls of the main building on the lot.

26. YARD, SIDE: A yard between the nearest of either the side or the main wall of the main building or structure and the side lot line extending from the front to the rear yard.

SECTION 4.0 GENERAL PROVISIONS

4.1 Accessory Buildings, Structures and Uses

4.1.1 Permitted Uses Where this By-law provides that a lot may be used and a building or structure may be erected or used for a purpose, that purpose shall include any accessory building or structure or accessory use, provided that a valid building permit for the principal use, if required, is issued or that the principal building or structure is already in existence on the lot. Accessory buildings, structures and uses shall be subject to the following provisions:

- a) Shall not be utilized as a dwelling or for any gainful occupation except as may otherwise be permitted in this By-law.
- b) Shall not be located in any required front yard or exterior side yard.
- c) Shall not exceed 15 percent lot coverage.
- d) Shall not exceed 25 feet (7.5 metres) in height.
- e) Shall not be located within 5 feet (1.5 metres) of any rear lot line or interior side lot line except for waterfront lots which in this case shall be 10 feet (3 metres).
- f) A detached garage may be located within a required front yard, but shall not be located within 10 feet (3 metres) of any front lot line.

4.2 Access Required to Build

No person shall erect any building or structure after the date of passing of this By-law, unless the lot upon which such building or structure is to be erected has frontage upon an improved public road.

4.3 Established Building Line

Notwithstanding the yard and setback provisions and any other provision of this By-law to the contrary, where a permitted dwelling unit is to be erected between permitted dwellings on the same street, the dwelling may be built with a yard and setback equal to the average of the dwellings on either side of the lot.

4.4 Height Exceptions

Notwithstanding the height provisions of the By-law to the contrary, nothing in this By-law shall apply to prevent the erection, alteration, or use of a barn or silo, a church spire, a belfry, a flag pole, a clock tower, a chimney, a water tank, a windmill, a radio or television tower or antenna, an air conditioner duct, a grain elevator, incidental equipment required for processing, external equipment associated with internal equipment or machinery and conveying equipment, which exceeds the maximum height requirements provided the main or principal use is permitted within the zone in which it is located and provided all other applicable provisions of this By-law are complied with.

4.5 Lots Having Insufficient Frontage or Area

Where a lot with less than the minimum frontage or area required by this By-law existed prior to the day this By-law came into force, the lot may be used for any uses, permitted by this By-law provided all other requirements of this By-law are met.

4.6 Non-Complying Uses-Permitted Enlargements

Where a use, building or structure was legally established prior to the date of the passing of this By-law and is permitted by the provisions of this By-law, but does not meet the zone provisions with respect to yards, lot area, frontage, setback or any other provisions of this By-law, the said building or structure shall be deemed to comply with the By-law and may be enlarged, extended, reconstructed, repaired or renovated provided that:

- a) The enlargement, extension, reconstruction, repair or renovation does not further reduce the compliance of that use, building or structure, with the provisions of the By-law to which it does not comply; and
- b) All applicable provisions of this By-law are complied with.

4.7 Non-Conforming Uses-Permitted Reconstruction

Where a building or structure which was erected prior to the date of the passing of this By-law is used for a purpose not permitted, the said building or structure may be reconstructed, repaired or renovated provided that:

- a) The reconstruction, repair or renovation does not involve any alteration of use and the building or structure continues to be used for the same purpose; and
- b) All other applicable provisions of this By-law are complied with.

4.8 Number of Dwellings on a Lot

Not more than one detached dwelling, or semi-detached dwelling, or duplex dwelling shall be erected on any lot.

4.9 Parking Area Regulations

- a) When any new development is undertaken or when any existing development is enlarged, or use changed, provisions shall be made for off-street vehicular parking spaces in accordance with the standards of Table 1 of this Section;
- b) The parking requirements for a single lot or building containing a number of uses shall be the sum total of the parking requirements for each of the component uses;
- c) Parking spaces and areas required in accordance with the by-law shall be used for the parking of operative, currently licensed vehicles only, and for vehicles used in operation incidental to the permitted uses in respect of which such parking spaces and areas are required or permitted; and,
- d) Where any alteration or enlargement of an existing commercial building or structure is no greater than 10 percent of the gross floor area of the building on the effective date of this By-law, there shall be no additional parking spaces required.
- e) Up to fifty (50%) percent of the off-street parking spaces required of a non-residential principal use may be located on other off-street property than that lot which the principal use is on so long as such space lies within three hundred (300) feet of such principal use. Off-street parking spaces for residential uses must be on-site.

**TABLE 1
PARKING REQUIREMENTS**

Type of Use Requirements and Minimum Off-Street Parking

Assembly Hall; Auditorium; Arena

One (1) parking space for each four (4) persons that may be legally accommodated at any one time.

Bowling Alley

Three (3) parking spaces for each bowling lane.

Business/Professional Office; Financial Establishment; Retail Commercial Establishment; Personal Service Shop; Occupation; or, Home Industry

One (1) parking space for each 215 square feet (20.0 square metres) of gross home floor area of the building.

Eating Establishment or Tavern

One (1) parking space for each 97 square feet (9.0 square metres) or fraction thereof, or one (1) parking space for each four (4) persons or fraction thereof, legal capacity, whichever is greater.

Eating Establishment, Drive-in

One (1) parking space for each 22 square feet (2.0 square metres) or fraction thereof of gross floor area.

Home for the Aged; or Nursing Home

One (1) parking space for each four (4) beds or fraction thereof.

Hotel; Motel; Cabin Establishment of Camping Establishment

One (1) parking space for each guest room, cottage, cabin, or campsite, plus such parking facilities as are required for an eating establishment or entertaining lounge, if such exists.

Liquor Licensed Premises, exclusive of an Eating Establishment; including an Entertainment Lounge; Public House; or Lounge licensed in accordance with The Liquor License Act, R.S.O., 1980, c.244, as amended, and the regulations thereunder.

One (1) parking space for each four (4) persons that may be legally accommodated at any one time.

Manufacturing; Processing; Assembling/Fabricating Plant; Wholesale Establishment; or Warehouse:

One (1) parking space per 398 square feet (37.0 square metres) of gross floor area or portion thereof.

Medical Clinic; Veterinary Clinic; Dental Clinic; or Offices of a Drugless Practitioner;

Five (5) parking spaces per practitioner; and, One (1) parking space for each examination room exceeding five (5) such rooms per office.

Residential

One and one-half (1.5) parking spaces per dwelling unit.

Schools

i) Elementary

ii) Secondary

One (1) parking space for each teacher and one for each employee. Four (4) parking spaces for each teaching classroom.

Undertaking Establishment

One (1) parking space for each five seating spaces or fraction thereof.

Uses Permitted by this By-law other than those listed in this Table

One (1) parking space per 377 square feet (35 square metres) of gross floor area.

4.10 Public Uses Permitted

The provisions of this By-law do not apply to prevent the use of any land or the erection of any building or structure for public purposes by the Corporation of the Village of Burk's Falls or any department of the Government of Ontario or Canada including Ontario Hydro or any telephone, telegraph or utility company and such use or erection is permitted provided that:

- (a) the lot size, coverage and yard regulations required for a commercial use in Section 5.0 of this By-law are complied with; and
- (b) any building erected under the authority of this paragraph is designed and maintained in general harmony with other buildings in the immediate vicinity and the lands are landscaped in general harmony with the surrounding properties.

4.11 Rebuilding and Repairs

Nothing in this By-law prevents the reconstruction or repair or strengthening or restoration to a safe condition of any building or structure that is damaged by causes beyond the control of the owner subsequent to the date of the passing of this By-law provided that the dimensions of the original building or structure are not increased so as to contravene the provisions of this By-law and its original use is not altered except to bring such building or structure into conformity with this By-law.

4.12 Sight Triangle

On any corner lot no fence or structure shall be erected and no hedge, shrub, bush, tree or other plant shall be permitted to grow to a height greater than 3 feet (1.0 metro) above the grade of the streets that abut the lot, within the triangular area bounded by the street lines and a line joining points on the street lines a distance of 20 feet (6.0 metres) from the point of intersection.

4.13 Special Setbacks

Notwithstanding the yard and setback requirements of this By-law to the contrary, the following setbacks shall also apply:

- a) No dwelling shall be located within 984 feet (300 metres) of a sewage treatment facility;
- b) No dwelling shall be located within 98 feet (30 metres) of an active railway line; and,
- c) No habitable building shall be located closer than 33 feet (10 metres) from the edge of any stream or watercourse.
- d) Group Homes shall not be located within 984 feet (300 metres) of another Group Home.

4.14 Temporary Uses - Construction Equipment

A tool shed, scaffold or other buildings or temporary structures incidental to construction on the lot where it is situated may be maintained on such lot where construction work is in progress for as long as is necessary for such work, but this section ceases to apply when there is abandonment or completion of such work.

4.15 Temporary Uses - Human Habitation During Construction

A motorized mobile home, truck camper, trailer or camper trailer equipped with toilet facilities and a MOE approved sewage holding tank may be used for temporary human habitation during the construction of a dwelling unit on a lot, PROVIDED that such structure is located on the same lot as the dwelling unit under construction and in compliance with setback provisions for the use and PROVIDED that:

- a) No such structure shall be located on the premises until a building permit for said construction has been issued and construction commenced;
- b) Such structure shall cease to be used for human habitation upon completion of the dwelling unit;
- c) Where not elsewhere permitted within this By-law the use of such structure shall be discontinued within 180 days of discontinuance of construction

SECTION 5.0 REGULATIONS FOR PERMITTED USES

Table 1 - Burk's Falls Zoning By-law Table

Land Use	Min. Lot Frontage	Min. Lot Area	Min. Front Yard	Min. Interior Side Yard	Min. Exterior Side Yard	Min. Rear Yard	Max. Lot coverage	Max. Height of Buildings
Residential: 1 Full services	66ft(20m)	8712sq.ft (809sq.m)	20ft(6m)	10ft(3M)2	20ft(6m)	30ft(9m)	40%	33ft(10m)
Private services	100ft(30m)	15000sq.ft (1394sq.m)	20ft(6m)	10ft(3m)2	20ft(6m)	30ft(9m)	30%	33ft(10m)
Commercial	66ft(20m)	8712sq.ft (809sq.m)					75%	33ft(10m)
Institutional	66ft(20m)	8712sq.ft (809sq.m)	10ft(3m)	10ft(3m)	10ft(3m)	10ft(3m)	50%	36ft(11 m)
Industrial	132ft(40m)	17424sq.ft (1618sq.m)	33ft(10m)	10ft(3m)	20ft(6m)	33ft (10m)	40%	36ft(11 m)
Extractive Industrial	100ft(30m)	15ac(6ha)	425ft (130m)	400ft(122m)		400ft (122m)		
Notes: 1. Town-houses	20ft(6m)	2640sq.ft (245sq.m)	20ft(6m)		20ft(6m)	33ft (10m)	5%	33ft(10m)
1. Apartment Buildings	66ft(20m)	8712sq.ft (809sq.m)	20ft(6m)	11.8ft (3.6m)	20ft(6m)	33ft (10m)	30%	33ft(10m)
2. Minimum 10ft(3m) on one side and 5ft(1.5m) on the other	-	-	-	-	-	-	-	-
1. Mixed-Use Buildings	66 ft(20m)	8712sq. ft (809 sq. m)	-	-	-	-	75%	33ft(10m)

SECTION 6.0 ADMINISTRATION AND ENFORCEMENT

6.1 Requirements for Building Permit

In addition to all of the requirements of any By-law of the Corporation, no building permit shall be issued in respect to the erection or alteration of a building or structure unless in accordance with the Village of Burk's Falls Building By-law and the Ontario Building Code.

6.2 Issuance of Building Permits

Notwithstanding the provisions of any by-law of the Corporation to the contrary, no building permit shall be issued where a proposed building, structure or alteration to an existing building or structure would contravene in any way one or more of the provisions hereof.

6.3 Inspection

6.3.1 Subject to clause 6.3.2 of this Subsection, the Chief Building Official or By-law Enforcement Officer of the Corporation, acting under the direction of Council, is hereby authorized to enter, at all reasonable hours, upon any property or premises for the purpose of carrying out his duties pursuant to the provisions of this By-law.

6.3.2 Notwithstanding anything to the contrary in clause 6.3.1 of this Subsection, no officer or employee of this Corporation shall enter any room or place actually being used as a dwelling unit or part thereof without the consent of the occupier, except under the authority of a search warrant issued under The Provincial Offences Act or any successors thereto.

6.4 Violations and Penalties

6.4.1 Every person who violates any of the provisions of this By-law is guilty of an offense and upon conviction thereof shall forfeit and pay a penalty, not exceeding Twenty-five Thousand Dollars (\$ 25,000.00) on a first conviction and Ten Thousand Dollars (\$ 10,000.00) on a subsequent conviction for each day or part thereof upon which the contravention has continued after the day first conviction.

6.4.2 Where a corporation is convicted under subsection 6.4.1 the maximum penalty that may be imposed is Fifty Thousand Dollars (\$ 50,000.00) on a first conviction and Twenty-five Thousand Dollars (\$ 25,000.00) on a subsequent conviction for each day or part thereof upon which the contravention has continued after the day of the first conviction.

6.5 Remedies

Where any buildings or structure is erected, altered, reconstructed or extended, or part thereof is used, or any lots used, in contravention of any requirements of this By-law, such contravention may be restrained by action at the instance of any ratepayer or of the Corporation pursuant to the relevant provisions of The Planning Act and/or The Ontario Building Code and/or The Municipal Act.

6.6 Validity

If any section, clause or provision of this By-law, including anything contained in the Schedules attached hereto, is for any reason declared by a court a competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or part thereof, other than the section, clause or provision so declared to be the intention that all the remaining sections, clauses or provisions of this By-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions hereof shall have been declared to be invalid.

6.7 Effective Date

This By-law shall take effect the date it was passed by Council where there are no objections received. Where objections are received it shall come into force upon receiving the approval of the Ontario Municipal Board in accordance with the provisions of The Planning Act.

BY-LAW READ A FIRST AND SECOND TIME THIS 24th DAY OF JANUARY, 2012

BY-LAW READ A THIRD AND FINAL TIME AND PASSED THIS 24th DAY OF JANUARY, 2012

SEAL


REEVE, CATHY STILL


CLERK, KIM DUNNETT