SECTION 4 – General Regulations

4.1 ACCESSORY BUILDINGS AND STRUCTURES

a) Unless otherwise provided for in this By-law, no accessory building or structure shall be used for human habitation.

b) Accessory buildings or structures to dwelling units having a maximum gross floor area of 10 square metres or less and a maximum height of 3 metres are permitted within a required rear yard or a required interior side yard.

c) Accessory buildings and structures to dwelling units with a building height greater than 3 metres shall be located a minimum of 0.6 metres from an interior side lot line and rear lot line.

d) For accessory buildings to single detached dwellings, semi-detached dwellings, and street townhouse dwellings, with or without a second dwelling unit (attached), or second dwelling unit (detached), and to multiple dwellings, the maximum height of the shortest exterior wall shall be 3 metres, the maximum building height shall be 5.5 metres, and the maximum lot coverage shall be 15 percent.

e) Accessory buildings or structures to dwelling units shall not be located in a front yard or exterior side yard.

4.2 ACCESSORY USES

Where this By-law provides that land may be used or a building or structure may be erected and used for a permitted use, that use shall include any accessory use provided that the accessory use is located within the same premises.

4.3 BONUSING

Reserved.

4.4 CONDOMINUMS

4.4.1 Standard Condominiums

a) Internal lot lines created by:

i) A registration of a plan of condominium; or

ii) A plan or plans of condominium registered on all or a portion of a lot which is part of a comprehensively planned development subject to a development agreement pursuant to Section 41 of the Planning Act;
shall not be construed to be *lot lines* for the purposes of zoning regulations provided that all applicable regulations of this By-law relative to the whole *lot* and its external *lot lines*, existing prior to any condominium plan registration are strictly observed.

b) Where a unit boundary extends beyond a *building* to a private amenity area not abutting a common element, each private amenity area shall have an unobstructed access at *grade* or *ground floor* level, having a minimum width of 0.9 metres from a common element, either by:

i) Direct access within the unit boundary without passing through any portion of the *dwelling unit*;

ii) Direct access through the *dwelling unit* without passing through a living or family room, dining room, kitchen, bathroom, bedroom, recreation room, or any hallway that is not separated by a door to any such room; or,

iii) Access over adjacent lands that, if the lands are not owned by the *City* or the *Region*, are secured through the declaration or common element of the condominium.

### 4.4.2 Vacant Land Condominiums

Despite Section 4.64.43, more than one *single detached dwelling*, *semi-detached dwelling*, or *street townhouse dwelling* shall be permitted on a *lot* provided that each has direct access to a *street* or an internal private *drive aisle* or road that is a common element in a registered Condominium connecting to a *street* and is located on a unit in a Vacant Land Condominium. For purposes of this regulation, the *front lot line* for each unit in a Vacant Land Condominium shall be deemed to be that *lot line* abutting the internal private *drive aisle* or road portion of the common element, or the *lot line* abutting a *street* wherever the *driveway access* is, and the *single detached dwelling*, *semi-detached dwelling*, or *street townhouse dwelling* shall comply with all applicable zoning regulations.

### 4.4.3 Common Element Condominiums

Despite Section 4.6, *single detached dwelling*, *semi-detached dwelling*, or *street townhouse dwellings* shall be permitted on *lots* without frontage on a *street* provided that they are located on *parcels of tied lands* to a Common Element Condominium consisting of at least a private *driveway* connecting to a *street*.

Where lands have been comprehensively planned and are subject to an approved site plan and a development agreement pursuant to Section 41 of the Planning Act, any zoning deficiencies resulting from the creation of the *parcels of tied lands*, shall be deemed to comply with the regulations of the By-law, provided that:

a) All applicable regulations of the By-law relative to the whole *lot* and its external *lot lines* existing prior to any condominium plan registration are complied with; and,

**City of Kitchener Zoning By-law 2019**

*Proposed Changes - Neighbourhood Planning Review - Oct 2019*
b) Each dwelling unit shall have an unobstructed access at grade or ground level, having a minimum width of 0.9 metres, from the front yard to the rear yard of the lot either by:

i) Direct access on the lot without passing through any portion of the dwelling unit;

ii) Direct access through the dwelling unit without passing through a living or family room, dining room, kitchen, bathroom, bedroom, recreation room, or any hallway that is not separated by a door to any such room; or,

iii) Access over adjacent lands that, if the lands are not owned by the City or the Region, are secured by an easement or are a common element of the condominium.

Any additions or alterations to the dwelling unit, accessory buildings, yard projections, and driveways added subsequent to the registration of the condominium, which are not shown on the approved site plan, must comply with the applicable zoning regulations for the single detached dwellings, semi-detached dwellings, or street townhouse dwellings contained within the parcels of tied land. For the purposes of this regulation, the front lot line shall be deemed to be the shortest lot line abutting a street, internal driveway, or internal walkway which provides primary access to the dwelling unit.

4.5 CORNER VISIBILITY TRIANGLES, CORNER VISIBILITY AREAS AND DRIVEWAY VISIBILITY TRIANGLES

a) No buildings, structures, motor vehicles, food cart, signs, landscaping, or other impediments shall obstruct visibility within a corner visibility triangle, corner visibility area or driveway visibility triangle. An obstruction to visibility shall not include objects 0.9 metres or less in height from the ground, or objects higher than 5 metres in height from the ground. This provision does not apply to the location of fences constructed in accordance with and regulated by Chapter 630 (Fences) of The City of Kitchener Municipal Code.

b) A corner visibility area shall be required in MIX zones. One leg of both triangles shall measure 6 metres and the other leg of both triangle shall measure 3 metres. Subsection a) shall not apply to existing buildings or new construction which replaces an existing building with the same building footprint within the corner visibility area.

c) A corner visibility area shall be required in UGC zones. One leg of both triangles shall measure 5 metres and the other leg of both triangle shall measure 3 metres. Subsection a) shall not apply to existing buildings or new construction which replaces an existing building with the same building footprint within the corner visibility area.
d) A corner visibility triangle shall be required in all zones except UGC zones and MIX zones and shall be measured at 7 metres from the point of intersection of the street lines.

e) A driveway visibility triangle shall be required in all zones except UGC zones and MIX zones and shall be measured from the point of intersection of a street line and the edge of a driveway a distance of 3 metres from the street line and 4.5 metres from the edge of the driveway.
Illustration 1: Corner Visibility Triangle, Corner Visibility Area and Driveway Visibility Triangle Dimensions
4.6  **FRONTAGE ON A STREET**

Unless otherwise provided for in this By-law, no *person* shall erect any *building* or *structure*; or use any *building*, *structure*, or *lot* unless:

a) The *lot* has frontage on a *street*; or,

b) The *lot* is separated from a *street* by land owned by a public agency for future road widening purposes, or as a 0.3 metre reserve if registered rights-of-way giving access to a *street* have been granted and such access scheme is part of a development agreement pursuant to the Planning Act, as may be outstanding as at the date of passage hereof, or as may be hereafter agreed to.

4.7  **HOME OCCUPATION**

4.7.1  **Regulations for Home Occupations**

a) A *home occupation* shall only be permitted on a *lot* containing a single *detached dwelling* (with or without an *additional dwelling unit* (attached)) *second dwelling unit* (attached), *additional dwelling unit* (detached), *semi-detached dwelling* (with or without an *additional dwelling unit* (attached)) *second dwelling unit* (detached), *cluster townhouse dwelling* (without an *additional dwelling unit* (attached)), *street townhouse dwelling* (without an *additional dwelling unit* (attached)) *second dwelling unit* (attached), or *additional dwelling unit* (detached) *second dwelling unit* (detached), or *multiple dwelling*.

b) A *home occupation* shall only locate in a *dwelling*.

c) A *home occupation* shall only be operated by the *persons* resident in the *dwelling unit*.

d) *Outdoor storage* shall not be permitted as part of a *home occupation*.

e) A *home occupation* shall not include a *noxious use*.

4.7.2  **Permitted Home Occupation Uses**

No *person* shall conduct a *home occupation* for any *use* other than those permitted *uses* within Table 4-2.
Table 4-2: Permitted Home Occupation Uses

<table>
<thead>
<tr>
<th>Home Occupation Use</th>
<th>First Home Occupation Use</th>
<th>Second Home Occupation Use</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Permitted home occupation use on a lot containing a single detached dwelling or a semi-detached dwelling unit (without an additional dwelling unit (attached) second dwelling unit (attached) or additional dwelling unit (detached) second dwelling unit (detached))</strong> (1)(2)(3)(4)</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Artisan’s Establishment</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Bed and Breakfast (5)(6)</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Canine and Feline Grooming Establishment (5)(7)</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Catering Service Establishment</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Commercial School</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Health Office</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Indirect Sales</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Light Repair Operation</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Office</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Personal Services (8)</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Private Home Day Care</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>Permitted home occupation use in a dwelling unit within a single detached dwelling with an second dwelling unit (attached) additional dwelling unit (attached) or second dwelling unit (detached) additional dwelling unit (detached), semi-detached dwelling unit with a second dwelling unit (attached) additional dwelling unit (attached) or second dwelling unit (detached) additional dwelling unit (detached), street townhouse dwelling, cluster townhouse dwelling, or multiple dwelling (9)(10)</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Artisan’s Establishment</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Commercial School</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Office</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Indirect Sales</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

Additional Regulations for Permitted Home Occupation Uses Table 4-2.

1. A maximum of two home occupations shall be permitted on a lot. The total maximum gross floor area for all home occupations on a lot is 25 percent of the gross floor area of the dwelling unit. In no case shall the gross floor area for all home occupations exceed 50 square metres of gross floor area.

2. A home occupation shall be conducted so as to not attract more than three customers or clients at any one time.

3. Despite Section 4.7.1 b), an artisan’s establishment, office, or indirect sales home occupation, that does not attract customers or clients to the lot, may locate in an accessory building.
(4) Despite Section 4.7.1 c), in addition to the resident, a *home occupation* may employ one non-resident employee.

(5) Only within a *single detached dwelling*.

(6) A maximum of two bedrooms is permitted within a *bed and breakfast*.

(7) A maximum of two dogs and two cats associated with the *canine and feline grooming establishment* are permitted at any one time, for a maximum of three hours on any given day during regular operating hours.

(8) Shall not include the cleaning of apparel.

(9) A *home occupation* shall be conducted so as to not attract more than one customer or client at any one time.

(10) A maximum of one *home occupation* shall be permitted within each *dwelling unit* to a maximum of 15 square metres of *gross floor area*.

4.8 **NON-COMPLIANCE AS A RESULT OF LAND ACQUISITION**

Where the acquisition of land by registration on title on or after the effective date of this By-law to widen a *street*, provide a *corner visibility triangle*, or other such requirements, results in non-compliance with any regulation herein, nothing in the By-law shall apply to prevent the continued use of any *lot, building, or structure* provided that such *lot, building, or structure* was lawfully established and *used* for such purpose on the date of acquisition of land.

4.9 **GROUP HOMES**

Only one *group home* shall be permitted on a *lot*.

4.10 **CORRECTIONAL GROUP HOMES**

a) Only one *correctional group home* shall be permitted on a *lot*.

b) No *building* or part thereof shall be *used* for a *correctional group home* on a *lot* situated within 400 metres of another *lot* on which either a *group home* or *correctional group home* is located. This distance shall be measured from the closest point of the *lot lines* associated with each *lot*.

c) No *building* or part thereof shall be *used* for a *correctional group home* on a *lot* that is situated within 100 metres of the *city* limit. This distance shall be measured from the closest point of the *lot line* associated with such *lot* and the *city* limit.
4.11 LOCATION OF LODGING HOUSES

a) Only one lodging house shall be permitted on a lot. No building shall be used for a lodging house on a lot that is situated within 400 metres of another lot on which a lodging house is located, such minimum distance to be measured from the closest point of the lot lines associated with each lot; and,

B) No building shall be used for a lodging house on a lot that is situated within 100 metres of the municipal limit of the city, such minimum distance to be measured from the closest point of the lot line associated with such lot and the municipal limit.

4.12 NUMBER OF DWELLINGS PER LOT

a) Unless otherwise provided for in this By-law, in any zone where a single detached dwelling or semi-detached dwelling is permitted, no more than one such dwelling shall be erected on a lot.

b) On a lot or block against which a Part Lot Control Exemption By-law is registered, those parts on a reference plan which are intended to constitute a future lot, the future lot shall be considered a lot for the purposes of this By-law.

4.12.1 Second Dwelling Units (Attached)

The regulations specified by any zone category in which a second dwelling unit (attached) is permitted, shall apply in addition to and as amended by the following:

a) Shall only be permitted on lots with no second dwelling unit (detached), and shall be located in the same building as a single detached dwelling, semi-detached dwelling, or street townhouse dwelling; and,

b) A direct entrance to the second dwelling unit (attached) from the outside shall be provided from a rear yard or side yard only.

4.12.1 Reserved. One Additional Dwelling Unit (Attached)

One additional dwelling unit (attached) may be permitted in association with a single detached dwelling, semi-detached dwelling or street townhouse dwelling in accordance with the regulations specified by the zone category in which an additional dwelling unit (attached) is permitted, and the dwelling type in which the additional dwelling unit (attached) is located and in addition to and as amended by the following:
a) One additional dwelling unit (attached) shall only be located in the same building as a single detached dwelling, semi-detached dwelling, or street townhouse dwelling;

b) A maximum of one pedestrian entrance to the principal building may be located on each street line façade; and

c) An additional dwelling unit (attached) shall be connected to full municipal services;

4.12.2 Two additional Dwelling Units (Attached) Second-Dwelling Units (Detached)

Two additional dwelling units (attached) may be permitted in association with a single detached dwelling in accordance with the regulations specified by the zone category and applying to single detached dwellings in which the two additional dwelling units (attached) are located and in addition to and as amended by the following:

a) two additional dwelling units (attached) shall be connected to full municipal services;

b) a maximum of one pedestrian entrance to the principal building shall be located on each street line façade;

c) no more than two additional dwelling units (attached) are permitted on a lot;

d) the minimum lot area shall be 395 square metres or in accordance with Table 7-2, whichever is greater;

e) the minimum lot width shall be 13.1 metres or in accordance with Table 7-2, whichever is greater;

f) the minimum landscaped area shall be 20%;

g) two additional dwelling units (attached) shall only be permitted in existing buildings;

additions to an existing single detached dwelling must be attached to the rear of principal building and shall not extend into any side yard farther than the extent of the existing principal building and provided such addition does not exceed 25 percent of the existing building's gross floor area.
4.12.3 Additional Dwelling Units (Detached)

One additional dwelling unit (detached) may be permitted in association with a single detached dwelling, semi-detached dwelling or street townhouse dwelling in accordance with the regulations specified by the zone category in which an additional dwelling unit (attached) is permitted, and as amended by the following:

a) an additional dwelling unit (detached) shall only be permitted on the same lot as a single detached dwelling, semi-detached dwelling or street townhouse dwelling, with or without one additional dwelling unit (attached);

b) an additional dwelling unit (detached) shall not be permitted on the same lot as a single detached dwelling with two additional dwelling units (attached);

c) an additional dwelling unit (detached) shall not be severed from the lot containing the single detached dwelling, semi-detached dwelling or street townhouse dwelling;

d) the additional dwelling unit (detached) shall be connected to full municipal services;

e) no more than one additional dwelling unit (detached) is permitted on a lot;

f) the gross floor area of the additional dwelling unit (detached) shall not exceed forty percent of the gross floor area of the single detached dwelling, semi-detached dwelling or street townhouse dwelling on the same lot;

g) the minimum lot area shall be 395.0 square metres or in accordance with applicable regulations included in Table 7-2, 7-3 or 7-4, whichever is greater;

h) the minimum lot width shall be 13.1 metres or in accordance with applicable regulations included in Table 7-2, 7-3 or 7-4, whichever is greater;

i) a building containing an additional dwelling unit (detached) shall be located a minimum of 0.6 metres from a rear lot line and interior side lot line;

j) an additional dwelling unit (detached) shall not be located in the front yard or exterior side yard;
k) the maximum height of the shortest exterior wall of a building containing an additional dwelling unit (detached) shall be 3 metres, the maximum building height shall be 6.0 metres, and:

l) an unobstructed walkway that is a minimum 1.1 metres in width shall be provided from a driveway, street or lane to the additional dwelling unit (detached).

m) Despite Section 5.3.3 a) ii), where three parking spaces are required in accordance with table 5-3, two parking spaces may be tandem parking spaces.

4.12.3.1 MINIMUM SIDE YARD SETBACK OF PRINCIPAL BUILDING:

On a lot containing an additional dwelling unit (detached):

a) The principal building shall be located a minimum of 2.5 metres from the side lot line nearest to where an unobstructed walkway is provided in accordance with subsection 4.12.3 l); and

b) The principal building shall comply with the setback provisions required for the dwelling for front, side and rear yards in all other cases.

Despite the foregoing clause a) will not apply if the additional unit (detached) has direct access from street or lane at the rear or exterior side yard.

4.13 PERMITTED PROJECTIONS ABOVE HEIGHT RESTRICTIONS

The maximum building height shall not apply to architectural features or spires; cupolas; antennae; flag poles; elevator penthouses; roof access stairways, railings, and penthouses; and heating, ventilation, and air conditioning equipment.

4.14 PERMITTED PROJECTIONS INTO REQUIRED YARDS

4.14.1 Architectural Features

Architectural features may project into any required yard to a maximum of 0.6 metres.
4.14.2 **Balconies**

Balconies associated with a *dwelling unit* may project into any required *yard* provided that the balconies:

a) Are not enclosed;

b) Are not supported by the ground;

c) Are located a minimum of 0.75 metres from an *interior side lot line* or *rear lot line*; and,

d) Are located a minimum of 3 metres from a *street line*, except in a *UGC zone* or *MIX zone*.

### 4.14.3 Canopies

Canopies may project into any required *yard* provided that the canopies:

a) Are not supported by the ground;

b) Do not project more than 1.8 metres into a required *front yard*, *exterior side yard*, or any other *yard* abutting a *street*; and,

c) Are located a minimum of 0.6 metres from a *street line*, *side lot line*, or *rear lot line*.

### 4.14.4 Decks

a) All decks shall meet the *setback* regulations required for the *building* in the applicable zone.

b) Despite Subsection a) in a *residential zone*, unenclosed decks that do not exceed 0.6 metres in height above the ground, may be located within a required *rear yard or interior side yard*.

c) Despite Subsection a) in a *residential zone*, entirely uncovered and unenclosed decks that exceed 0.6 metres in height above the ground, may be located within a required *rear yard* provided that they are located a minimum of 4 metres from the *rear lot line* and meet the *side yard setback* regulations required for the *dwelling* in the applicable zone.

a) All decks shall meet the *setback* regulations required for the *building* in the applicable zone.
b) Despite Subsection a) in a residential zone, unenclosed decks that do not exceed 0.6 metres in height above the ground, may be located within a required rear yard or interior side yard.

c) Despite Subsection a) in a residential zone, entirely unenclosed decks that exceed 0.6 metres in height above the ground, may be located within a required rear yard provided that they are located a minimum of 4 metres from the rear lot line and meet the side yard setback regulations required for the dwelling in the applicable zone.

d) Despite Subsection a) covered decks attached to the principal building, and unenclosed, may be located within a required rear yard provided that they are located a minimum of 4 metres from the rear lot line and meet the side yard setback regulations required for the dwelling in the applicable zone.

4.14.5 Heating, Ventilation, and Air Conditioning Equipment

a) Heating, ventilation, and air conditioning equipment; and other similar mechanical equipment associated with a dwelling, may locate within a rear yard or interior side yard, provided that the equipment is located a minimum of 3 metres from a street line and is screened from the street.

b) Heating, ventilation, and air conditioning equipment; and other similar mechanical equipment associated with a non-residential building or mixed use building, may locate within a required rear yard or interior side yard, provided that the equipment has a minimum setback of 3 metres from a street line and from an abutting residential setback, and is screened.

4.14.6 Pools and Hot Tubs

Pools and hot tubs associated with a dwelling unit are permitted to locate within an interior side yard, exterior side yard, and rear yard provided that the pool or hot tub:

a) has a minimum setback of 0.6 metres from an interior side lot line or rear lot line; and,

b) is located a minimum of 2.1 metres from a street line.

4.14.7 Porches

a) The minimum depth of a porch associated with a dwelling unit shall be 1.5 metres; or in the case of an existing porch with a depth of less than 1.5 metres, the minimum depth shall be the existing depth.
b) Unenclosed porches associated with a dwelling unit may project into a front yard or exterior side yard provided that the porch is located a minimum of 3 metres from a street line and the floor of the porch does not exceed 1 metre in height above the ground. A cold room may be located beneath the porch.

c) Despite Subsection b), a porch attached or unattached to the principal building of a structure designated under the Ontario Heritage Act may be located or reconstructed within a required front yard or side yard provided that the setback, gross floor area, dimensions, and height do not exceed what legally existed on or before March 5, 2012.

4.14.8 Restaurant Patios, Decks, and Outdoor Recreation

4.14.8.1 RESTAURANT PATIOS, DECKS, AND OUTDOOR RECREATION

Patios, decks, and outdoor recreation associated with a restaurant may project into a required yard provided that:

a) They are located a minimum of 30 metres from any residential zone;

b) In a COM or EMP zone they have a minimum setback of 3 metres from a street line; and,

c) Despite Subsection a), in a UGC or MIX zone, a patio, deck, and outdoor recreation associated with a restaurant may be located within a front yard or exterior side yard.

4.14.8.2 PRIVATE PATIOS

Any required private patio shall be a minimum of 11 square metres in size.

Patios, decks, and outdoor recreation associated with a restaurant may project into a required yard provided that:

a) They are located a minimum of 30 metres from any residential zone;

b) In a COM or EMP zone they have a minimum setback of 3 metres from a street line; and,

c) Despite Subsection a), in a UGC or MIX zone, a patio, deck, and outdoor recreation associated with a restaurant may be located within a front yard or exterior side yard.

4.14.9 Satellite Dishes and Antennas

Satellite dishes and antennas may project into a required yard and they shall be attached to a building and shall not exceed 0.9 metres in diameter.
4.14.10 **Steps and Access Ramps**

a) Steps and access ramps that do not exceed 0.6 metres above ground level may be located within any *yard side yard*.

b) Steps and access ramps that exceed 0.6 metres above ground level shall be located a minimum of 3 metres from a *street line* and a minimum of 0.75 metres from an *interior side lot line* or *rear lot line*.

c) The maximum area of steps and access ramps located in a *front yard* shall not exceed 40 percent of the area of the *front yard*.

4.15 **PERMITTED USES**

4.15.1 **Automotive Detailing and Repair Operation, and Heavy Repair Operation**

a) Any portion of a building used for an *automotive detailing and repair operation* and/or *heavy repair operation* shall be setback a minimum of 14 metres from any *lot line* abutting a *residential zone*.

b) Despite Subsection a), where such building or portion thereof is constructed without an opening, such as a vent, door, or window, the setback regulations of the applicable zone apply.

4.15.2 **Construction Uses**

A *lot* in any *zone* may be *used* for temporary *buildings* and trailers associated with construction work occurring on such *lot* for the duration of construction, or for as long as the building permit is valid, whichever comes first. No temporary *building* and/or trailer intended for construction work purposes shall be *used* for human habitation.

4.15.3 **Drive-Through Facilities**

a) A *drive-through facility* shall be located a minimum distance of:

   i) 15 metres from an abutting *residential zone* where a visual barrier is provided along the abutting *lot line*; and,

   ii) 7.5 metres from an abutting *residential zone* where an acoustic barrier, certified by a professional engineer, is installed along the abutting *lot line* prior to occupancy of the *drive-through facility*, and is maintained thereafter.

b) Subsection a) shall not apply to an *existing drive-through facility*.

4.15.4 **Food Cart**

A *food cart* shall be permitted in all zones except *residential zones*, *NHC zones* or *OSR-3 zones*, provided that:

**City of Kitchener Zoning By-law 2019**
a) It does not occupy any drive aisle or required parking space; and,

b) It does not exceed 2.0 metres in height, 2.0 metres in length and 1.2 metres in width.

4.15.5 Gas Station

a) A fuel pump island shall have a setback of 6 metres from a street line, and a canopy structure above a fuel pump island shall have a setback of 3 metres from a street line;

b) A fuel pump island and a canopy structure above a fuel pump island shall be located a minimum of 30 metres from a residential zone;

c) No underground or above-ground fuel storage tank shall be located within 3 metres of a street line;

d) The rear yard setback for a building associated with a gas station shall be 3 metres; and,

e) The minimum interior side yard setback for a building associated with a gas station abutting a residential zone shall be 3 metres.

4.15.6 Model Home

a) A maximum of 10 model homes may be permitted on a lot in any zone.

b) The model homes shall be constructed to the requirements and provisions of the zone in which the model homes are located. The model homes shall be situated within 150 metres of an in-service fire hydrant on lands in a draft approved plan of subdivision, with or without service connections.

4.15.7 Public Uses and Utilities

Unless otherwise regulated herein, public uses and utilities may be permitted in any zone, provided that:

a) Such use, building, or structure complies with the regulations, and parking and loading requirements of the applicable zone; and,

b) Accessory outdoor storage may be permitted, and shall not be located within any yard abutting a residential zone.

4.15.8 Shipping Container

a) A shipping container shall not be located on a lot in a residential zone.
b) Despite Subsection a), a *shipping container* may be permitted on a *driveway* within a *residential zone* for a period not exceeding 30 days in any given year, provided that the *shipping container* is not located within or blocking access to a required *parking space*, and that the *shipping container* is located a minimum of 0.6 metres from a *street line*.

c) Where a *shipping container* is converted and *used* as a construction material for a residential *dwelling* subject to the Ontario Building Code, it is a *building*.

4.15.9 **Towing Compounds**

A *towing compound* shall not be located on a *lot* that is within 30 metres of a *residential use*.

4.15.10 **Temporary Sales Centre**

A *temporary sales centre* is permitted in all UGC, MIX, and COM zones; and in all *residential zones*, and shall be subject only to the *setback* regulations of the applicable zone.

4.16 **SETBACKS FROM RAILWAYS**

a) Any portion of a *building* used for *dwelling units*, *multiple dwellings*, *elementary school*, *secondary school*, *post-secondary school*, *adult education school*, *day care facility*, or *place of worship* shall be *setback* a minimum of:

i) 30 metres from the *lot line* of the active railway right-of-way for a Principal or Secondary Main Line; or,

ii) 15 metres from the *lot line* of the active railway right-of-way for a Principal, Secondary or Tertiary Branch Line

b) Subsection a) shall not apply to any railway right-of-way or section thereof solely used for *light rail transit*.

4.17 **TWO OR MORE ZONES ON A LOT**

Where two or more *zones* apply to a *lot*, the following shall apply:

a) *Floor space ratio* shall be calculated using only that portion of the *building floor area* and only that portion of the *lot area* within each *zone*.

b) Despite Subsection a) the *lot area* of lands zoned OSR-2 and used for *utility corridor* purposes shall be permitted to be included in the calculation of *floor space ratio* for an abutting portion of the lot within another *zone*.

c) *Building height* shall be measured to the uppermost point of that portion of a *building* within each *zone*.
d) Parking spaces and bicycle parking stalls associated with permitted uses within each zone on a lot may be located within any zone on a lot, except that portion of a lot within a OSR, NHC or EUF zone.

4.18 VISUAL BARRIER

Where a visual barrier is required, it shall be a minimum height of 1.8 metres above ground level, and shall be an opaque screen consisting of materials such as a wall, fence, trees, shrubs, and/or earth berms.

4.19 TRANSITION TO LOW-RISE RESIDENTIAL

Despite any maximum building height of more than 12 metres applying to any zone, the building height shall not exceed 12 metres within 15 metres of a lot with a low-rise residential zone.