

BY-LAW NO. 78-49

A BY-LAW ESTABLISHING THE ZONING OF CERTAIN PARCELS OF LAND WITHIN THE TOWN OF LINCOLN, AND REGULATING THE USE OF LAND AND THE CHARACTER, LOCATION AND USE OF BUILDINGS AND STRUCTURES THEREON.

THE COUNCIL OF THE CORPORATION OF THE TOWN OF LINCOLN ENACTS AS FOLLOWS:

THIS BY-LAW establishes the zoning for certain parcels of land known as Part of Lot 16, Concession 2 of the former Township of Clinton, and part of Lot 6, Corporation Plan 3 of the former Town of Beamsville, former County of Lincoln, all now in the Town of Lincoln, in the Regional Municipality of Niagara, as shown on Schedule "A" and "B" attached hereto, which shall form part of this By-law. The zoning of these parcels permits their development in accordance with the following provisions, which apply only to lands which are the subject of this By-law.

## SECTION I INTERPRETATION AND ADMINISTRATION

### 1.1 Title

This By-law may be cited as the Zoning By-law for Part of Lot 16, Concession 2 of the former Township of Clinton, former County of Lincoln, all now in the Town of Lincoln, in the Regional Municipality of Niagara. Schedules "A" and "B" are hereby declared to be part of this By-law.

### 1.2 Zones

For the purposes of this By-law the following zone symbols and zone names are used and the location of such zones are established on Schedule "B".

<u>Zones</u>	<u>Zone Symbols and Names</u>
Residential	R2 Residential 2
	R3 Residential 3
	R4 Residential 4
	RM1 Residential Multiple 1
Open Space	OS Open Space

### 1.3 Compliance with the By-law

No land, building, structure, lot or premises shall be used and no building or structure shall be erected or altered for any purpose EXCEPT in conformity with provisions of this By-law.

#### 1.4 Administration, Enforcement and Penalties

1.4.1 This By-law shall be enforced by the person appointed by By-law of the Council of the Corporation of the Town of Lincoln as the By-law Enforcement Officer, or by any other person authorized by Council to carry out such duties.

1.4.2 Where the By-law Enforcement Officer or other appointed person has reason to believe that any person has used land or erected or used any building or structure in contravention of this By-law, he or any employee of the Town authorized to do so, may at any reasonable hour enter and inspect the land, buildings or structures.

1.4.3 Every person who contravenes any provision of this By-law is guilty of an offence and is liable upon summary conviction to a penalty not exceeding \$1,000.00 exclusive of costs, for each offence.

1.4.4 In case any building or structure is erected, altered, reconstructed, extended, or enlarged, or any building or structure or part thereof is used, or any land is used, in contravention to the By-law may be restrained by action at the insistence of any ratepayer or of the CORPORATION pursuant to the provisions of the Municipal Act in that behalf.

#### 1.5 Building and Other Permits

Notwithstanding the provisions of the Corporation's Building By-law or any other By-law of the Corporation, no building permit or occupancy permit shall be issued where the proposed building, structure, or use would be in violation of any of the provisions of this By-law.

### SECTION II PROVISIONS FOR ALL ZONES

#### 2.1 General Requirements for All Zones

2.1.1 No person shall use any land or erect or use any building or structure EXCEPT in conformity with the provisions of this By-law respecting the zone:

- a) in which such land, building or structure is located
- or
- b) in which it is proposed to use any land or to erect or use any building or structure.

2.1.2 The purpose for which any land, building, or structure is used shall not be changed, no new building or addition to any existing building shall be erected and no land shall be severed from a lot, if such change, erection or severance creates a situation that contravenes any of the provisions of

this By-law applicable to each individual remaining building, accessory building or lot.

2.1.3 No person shall be deemed to have contravened any provisions of this By-law if only a part or parts of any lot or parcel has or have been conveyed to or acquired by the Corporation, the Regional Municipality of Niagara, Her Majesty in the Right of Ontario, or Her Majesty in the Right of Canada. If such conveyance to the Public Authority creates a lot, that new lot shall be deemed to be a legal lot for purposes of this By-law.

2.1.4 This By-law shall not be effective to reduce or mitigate any restrictions lawfully imposed by a governmental authority having jurisdiction to make such restrictions.

2.1.5 Nothing in this By-law shall operate to relieve any person from the requirements of the Building By-law or any other By-law or requirement of the Town in force from time to time, or the obligation to obtain any license, permit, authority or approval, required under any By-law of the Town.

2.1.6 The minimum lot area shall be contained in the appropriate section of this By-law for the zone in which the lot is located, or such a lot as may be permitted under Section 32 of the Planning Act, R.S.O., or such larger area as may be required by the Ministry of the Environment pursuant to the provisions of the Public Health Act.

2.1.7 The outside storage of any motor vehicle, in a residential zone, having a length exceeding 18 feet and a manufacturer's rated capacity of Gross Vehicle Weight exceeding 10,000 pounds is prohibited.

## 2.2 Yard Encroachments and Height Exceptions

2.2.1 Every part of a required yard shall be unobstructed from its lower level upwards EXCEPT that:

- a) eaves, gutters, cornices, chimney breasts, bay windows, or pilasters, may project into any required yard a distance of not more than two feet;
- b) balconies, canopies, or unenclosed porches, may project into any required front or rear yard a distance of not more than five feet;

- c) exterior (unenclosed) fire escapes may project into any required side or rear yard a distance of not more than five feet;
- d) accessory buildings may be erected in accordance with the applicable provisions of this By-law;
- e) fences, freestanding walls, flag poles, antennae, light standards, and similar accessory structures and appurtenances, and hedges, trees and shrubs, are permitted but in the case of:

- i) a residential interior lot situated in any Residential Zone, no structure, hedge or obstruction, that is more than two feet six inches in height is permitted within ten feet of any street line, and

- ii) a residential corner lot situated in any Residential Zone, no structure, hedge or obstruction that impedes vision between a height of two feet six inches and eight feet above the centre line grade of the street or streets abutting a visibility triangle of thirty feet is permitted.

2.2.2 No height provisions contained in any zone shall apply to a church spire, a belfry, a flag pole, a clock tower, a chimney, a water tank, a radio or television tower or antenna, or air conditioner duct.

### 2.3 Swimming Pools

2.3.1 Notwithstanding anything contained in this By-law a swimming pool is permitted as an accessory use to a permitted residential use,

- a) in the front or side yard of any lot if:

- i) no part of such pool is located closer to any lot line or street line than the minimum distance required for the principal building located on such lot;

- ii) the maximum height of such pool is four feet above the average finished grade level of the ground adjoining and within fifteen feet of such pool;

- iii) any building or structure, other than a dwelling, required for changing clothing or for pumping or filtering facilities, or other similar accessory uses, complies with the provisions of this By-law respecting accessory buildings on such lot;

b) in the rear yard of any lot if no part of such pool is located closer to any lot line or street line than the minimum distance required for any accessory building located on such lot.

2.3.2 Every swimming pool shall be enclosed by a fence of at least 4 feet in height and located at a distance of not less than five feet and not more than 15 feet from the inside edge of the pool, with entry to the pool area only possible by means of a self-locking or self-latching gate or gates so as to reasonably deter any child from entering the pool area when the pool is not in use, EXCEPT in the following instances:

i) in the case where the total height of pool wall above grade, plus a fence extension or a deck railing above the pool wall total at least six feet above the average finished grade level of the ground adjoining and within 15 feet of the pool, and access to the pool area is restricted to a self-latching or self-locking gate or gates, removable ladder, or ladder that can be folded and locked so as to reasonably deter any child from entering the pool area when the pool is not in use.

ii) in the case of a large or odd-shaped lot, a Site Plan Agreement can be entered into between the Town and the Owner governing the location of the fence.

#### 2.4 Signs

Until such time as a Municipal Sign By-law is enacted, signs shall be permitted only in the following zones as specified below:

##### 2.4.1 All Zones:

- a) an authorized traffic sign or signal;
- b) a public election list or other proclamation by governmental authority;
- c) a "No Trespassing" or other announcement or sign other than an advertisement;
- d) a sign incidental to construction on the premises, a non-illuminated real estate sign not exceeding six square feet in area, advertising the sale, rental or lease of any lot or premises;
- e) a name plate not exceeding two square feet in area

indicating the name of the occupant of a dwelling on the lot;

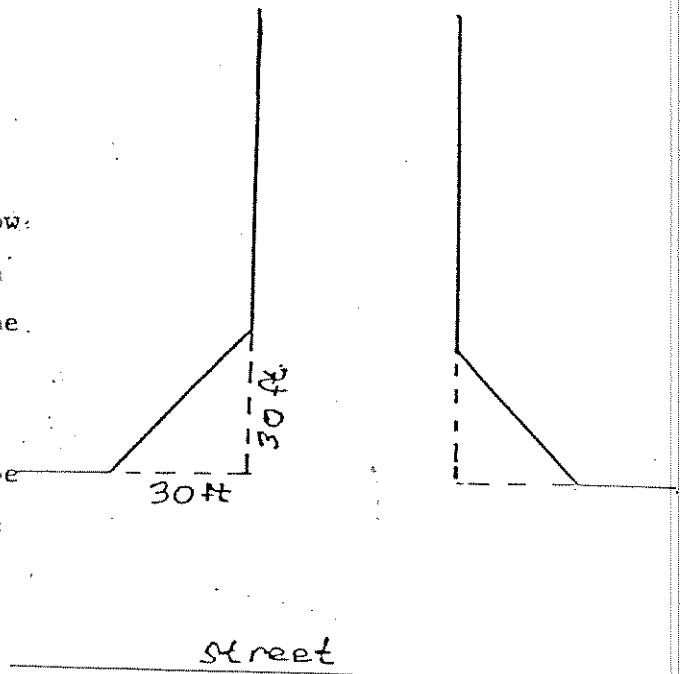
2.4.2 R2 Residential 2 Zones, R3 Residential 3 Zones and  
R4 Residential 4 Zones

A sign not exceeding three square feet in area indicating the name and profession of a qualified medical practitioner, dentist or other practitioner of another profession permitted in a residential zone.

2.5 Visibility Triangle

2.5.1 Where two streets intersect, a visibility triangle is required, on which no solid fence or wall shall be erected to a height greater than 2'6"; and no tree, shrub or hedge shall be planted or permitted to grow higher than 2'6" above the elevation of the pavement where the centre line of the streets intersect.

2.5.2 The visibility triangle may be a portion of the lot, or part of the intersecting streets, but in either case, the area of the daylighting triangle may be considered as a part of the lot area for purposes of meeting the lot area requirements of this By-law.



2.6 Provisions for Accessory Buildings and Structures

2.6.1 Where this By-law provides that a lot may be used or a building or structure may be erected or used for a purpose, that purpose shall include any accessory building or structure or accessory use, but shall not include the following:

- i) any occupation for gain or profit EXCEPT as is specifically permitted in this By-law;
- ii) any building used for human habitation, EXCEPT as is specifically permitted in this By-law.

2.6.2 Except as otherwise provided herein, any accessory building or structure which is not part of the main building shall be erected to the rear of the front yard and shall comply with the yard and setback requirements of the zone in which such building or structure is situated.

2.6.3 The total lot coverage of all accessory buildings and structures shall not exceed ten percent of the lot area nor shall the height of any accessory building or structure exceed fifteen feet, EXCEPT for chimneys and radio and television antenna, which are specifically excepted from height restrictions.

2.6.4 A detached private garage may be erected and used in an interior side or rear yard provided that:

INTERIOR SIDE YARD- when such accessory building is located in an interior sideyard it shall not be closer than four feet to the interior side lot line, EXCEPT where a common semi-detached garage is being erected simultaneously on both sides of the lot line, as one building, in which case no interior sideyard to the accessory building is required.

REAR YARD- when such accessory building is located in a rear-yard it shall not be closer than four feet to the interior side lot line or rear lot line, except when a common semi-detached garage is being erected simultaneously on both sides of the lot line, as one building, in which case no interior sideyard to the accessory building is required.

RELATION TO STREET-all accessory buildings shall comply with the setback provisions applicable to the principal or main building on the lot.

SECTION III PROVISIONS FOR THE RESIDENTIAL R2, R3, R4 AND RM1 ZONES

3.1 <u>Permitted Uses</u>	<u>R2</u>	<u>R3</u>	<u>R4</u>	<u>RM1</u>
Existing Dwellings	X	X	X	X
Single Family Detached Dwellings	X	X	X	
Semi-Detached Dwellings	X	X	X	
Townhouse Dwellings				X
Professional Offices	X	X	X	
Day Nurseries		X	X	

3.2 Lot, Site and Building Standards

<u>Setbacks (in feet)</u>	<u>Single Family Detached Dwellings</u>			<u>Semi-Detached Dwellings</u>			<u>Townhouse Dwellings</u>
	<u>R2</u>	<u>R3</u>	<u>R4</u>	<u>R2</u>	<u>R3</u>	<u>R4</u>	<u>RM1</u>
Minimum Frontyard	25	25	25	25	25	25	25
Minimum Sideyard	5(a)	4(a)	4(a)	6(b)	6(b)	5(b)	(c)
Minimum Exterior Yard	20	20	20	20	20	20	20
Minimum Rearyard	30	30	30	30	30	30	30

Setbacks (in feet)	Single Family Detached Dwellings			Semi-Detached Dwellings			Townhouse Dwellings
	R2	R3	R4	R2	R3	R4	RM1
<u>Lot Requirements</u>							
Minimum Lot Area in square feet	6,000	5,500	5,000	-	-	-	-
Minimum Area in Square feet per unit	-	-	-	4,000	4,000	3,500	2,500
Minimum Lot Frontage in feet	60	55	50	80	80	70	22
Maximum Lot Coverage	35%	35%	35%	35%	35%	35%	35%
<u>Building Requirements</u>	R2	R3	R4	R2	R3	R4	RM1
Minimum Floor Area in square feet per unit	1,000	950	950	950	950	950	900(d)
Maximum Height in feet	35	35	35	35	35	35	35
Maximum Accessory Building Height in feet	15	15	15	15	15	15	15

#### Footnotes

- a) The required sideyard shall be as stated on both sides where there is an attached private garage, or shall be as stated on one side and ten feet on the other where there is no attached private garage.
- b) The required sideyard shall be as stated where there is an attached private garage or carport per dwelling unit or shall be 10 feet where there is not an attached private garage or carport. An additional 2 feet shall be provided for each storey above the first storey. However, the additional two feet shall not apply where there is a 10 foot sideyard as above in this clause.
- c) Six feet plus two feet for every storey above the ground floor on one side and twenty feet on the other side.
- d) Minimum Floor area shall be 900 square feet for a two bedroom unit as stated plus 150 square feet for each additional bedroom.

### 3.3 Semi-Detached Dwelling Lots

Nothing in this By-law shall prevent the subdivision of any lot

on which is erected a semi-detached dwelling into two parts divided in part by the centre line of the common or party wall separating the two dwelling units in such dwelling.

### 3.4 Parking Requirement

One off-street parking space is required for each dwelling unit.

#### 3.4.1 Trailer Parking In Residential Areas

The following regulations apply to the parking of trailers and recreation vehicles in a single family residential zone and a semi-detached zone;

- a) trailer or recreation vehicle not exceeding a height of five feet may be parked in any yard;
- b) a trailer or recreation vehicle exceeding a height of five feet may be parked in a required frontyard or side-yard flanking a street, between May 1st and October 30th; at any other time such parking is permitted only in a required side or rearyard; the maximum length of such a vehicle is 30 feet.
- c) Notwithstanding the forgoing, such parking is not permitted in a visibility triangle, at street intersections as defined in Section 2.5 of this By-law.

### 3.5 Special Provisions for Day Nurseries

No day nursery is permitted in any residential dwelling where more than ten children are accommodated at one time.

### 3.6 Special Provisions For Professional Offices

The following regulations apply to a dwelling unit wherein a professional office is permitted:

- 3.6.1 The profession shall be carried on by a member of the family residing on the premises.
- 3.6.2 No more than one assistant who is not a resident in the said dwelling may operate in or from said dwelling.
- 3.6.3 There is no display, other than a legal sign, to indicate to persons outside that any part of the dwelling house, unit or lot is being used for a purpose other than residential.
- 3.6.4 Such professional office is clearly secondary to the main residence use and does not change the residential character of the dwelling house or unit nor create or become a public nuisance, in particular, in regard to noise, traffic or parking.
- 3.6.5 No commercial vehicle, having a length exceeding eighteen feet and the manufacturer's rated capacity of Gross Vehicle Weight exceeding 10,000 pounds shall be stored or parked outside a building.

3.6.6 Such professional office does not interfere with television or radio reception of others in adjacent buildings or structures.

3.6.7 Not more than twenty-five percent of the gross floor area of the dwelling or unit is used for the purpose of professional office.

3.6.8 Such professional office shall not include a clinic, a private hospital, a nursing home, an eating establishment or an animal hospital.

#### SECTION IV PROVISIONS FOR THE OPEN SPACE OS ZONE

##### 4.1 Permitted Uses

Public parks, playgrounds, and recreational facilities, together with necessary accessory structures, saving and excepting human habitation.

#### SECTION V DEFINITIONS OF TERMS USED IN THIS BY-LAW

In this By-law:

ACCESSORY BUILDING OR STRUCTURE: means a detached building or structure that is not used for human habitation, but the use of which is naturally and normally incidental to, subordinate to or exclusively devoted to a principal use or building and located on the same lot therewith; and shall also mean and include a detached private garage or a detached carport.

DWELLING: means a building designed or used for residential occupancy but does not include hotels, motor hotels, motels, mobile homes or trailers.

DWELLING, SINGLE FAMILY DETACHED: means a separate building containing not more than one dwelling unit and used by not more than one family.

DWELLING, SEMI-DETACHED: means a separate building divided vertically into not more than two dwelling units, and which dwelling units may be held in separate ownership and which building is used by not more than two families.

DWELLING, SPLIT LEVEL: shall be deemed to be a two storey dwelling.

DWELLING, TOWNHOUSE: means a separate building divided vertically into more than three but fewer than nine dwelling units, provided that the maximum length of the building is not more than 180 feet.

EXISTING: means existing, being a reality or an actuality on the date of passing of this By-law.

FLOOR AREA: means with reference to a building the total habitable floor area within a building which area is measured between the exterior faces of the exterior walls or from the centre line of a common or party wall, but excluding any private garage, breezeway, porch, verandah, balcony, sunroom, attic, basement, cellar and any floor area with a ceiling height less than seven feet.

LOT: means a parcel of land which is described in a registered deed and/or shown in a registered plan of subdivision including any of its parts which are subject to right-of-easement.

LOT AREA: means the total horizontal area within the lot lines of a lot, excluding the horizontal area of such lot covered by water or marsh, and in the case of a corner lot, having street lines rounded at the corner with a radius of twenty feet or less, the lot area of such lot is to be calculated as if the lot lines were projected to the point of intersection.

LOT COVERAGE: means that percentage of the lot area covered by all buildings above ground level, but does not include that portion of the lot area which is occupied by a building or portion thereof which is completely below ground level, and for the purposes of this paragraph 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.

PARKING SPACE: means an area of not less than two hundred square feet, exclusive of any aisles, ingress or egress lanes, for the temporary parking or storage of motor vehicles, and may include a private garage.

PROFESSIONAL OFFICE: means any office used by professionally qualified persons for the purposes of giving advice, consultation or treatment to clients or patients.

SETBACK: means the horizontal distance from the centre line of the street allowance, measured at right angles to such centre line, to the nearest part of any building or structure on the lot.

YARD: means a space, other than a court yard, appurtenant to a building or structure, located on the same lot as the building or structure, and which space is open, uncovered and unoccupied from the ground to the sky except for such accessory buildings, structures or uses as are specifically permitted elsewhere in the By-law.

YARD, EXTERIOR SIDE: means the sideyard of a corner lot which sideyard extends from the frontyard to the rearward between the side lot line abutting a street and the nearest main wall of any building or structure.

YARD, FRONT: means a yard extending across the full width of the lot between the front lot line of the lot and nearest part of any building or structure on the lot.

YARD, MINIMUM FRONT: means the minimum depth of a frontyard on a lot between the front lot line and the nearest wall of any building or structure on the lot.

YARD, MINIMUM REAR: means the minimum depth of a rearyard on a lot between the rear lot line and the nearest wall of any main building or structure on the lot.

YARD, MINIMUM SIDE: means the minimum width of a sideyard on a lot between a side lot line and the nearest wall of any building or structure on the lot.

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

YARD, SIDE: means a yard extending from the frontyard to the rearyard of a lot, and between a side lot line and the nearest wall of any building or structure on the lot.

ZONE PROVISIONS: means the permissible uses, the minimum area and dimensions of lots, the minimum dimensions of yards, the maximum floor area ratio, the minimum setback, gross floor area, the minimum landscaped open space, the maximum height of buildings, minimum parking requirements, and all other zone provisions as set out within the By-law for the respective zones.

THIS BY-LAW SHALL come into force and take effect upon being passed by the Council of the Corporation of the Town of Lincoln subject to the approval of the Ontario Municipal Board.

READ a FIRST time this 4th of July, 1978.

READ a SECOND time this 4th day of July, 1978.

READ a THIRD time and FINALLY PASSED this 4th day of July, 1978.

Fred D McKenzie  
MAYOR

[Signature]  
CLERK