

The Corporation of the Municipality of Leamington

By-law 30-18

By-law to amend By-law 08-18, a by-law to regulate the parking of motor vehicles in residential zones.

And Whereas section 128 of the Municipal Act, 2001 provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council are or could become public nuisances;

And Whereas in the opinion of Council for The Corporation of the Municipality of Leamington, the act of parking a motor vehicle in residential zones is or could become a public nuisance;

And Whereas on January 29, 2018, Council for The Corporation of the Municipality of Leamington enacted by-law 08-18, a by-law to regulate the parking of motor vehicles in residential zones;

And Whereas Council for The Corporation of the Municipality of Leamington deems it necessary to amend By-law 08-18;

Now Therefore the Council of The Corporation of the Municipality of Leamington hereby enacts as follows:

1. Section 7 of By-law 08-18 be deleted and replaced with the following:
 7. Subsections 5(a) and (b) shall not apply from April 1 to and including October 31 of each year.

Read a first, second and third time and finally enacted this 14th day of May, 2018.



John Paterson, Mayor

Brenda M. Percy, Clerk

The Corporation of the Municipality of Leamington

By-law 08-18

By-law to regulate the parking of motor vehicles
in residential zones.

AND WHEREAS section 128 of the Municipal Act, 2001 provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council are or could become public nuisances;

AND WHEREAS in the opinion of Council for the Corporation of the Municipality of Leamington, the act of parking a motor vehicle in residential zones is or could become a public nuisance;

NOW THEREFORE the Council of The Corporation of the Municipality of Leamington hereby enacts as follows:

DEFINITIONS

1. For the purposes of this By-law, the following words have the following meanings:
 - a) "Comprehensive Zoning By-law" means the Municipality of Leamington's Comprehensive Zoning By-law 890-09 as may be amended or replaced from time to time;
 - b) "commercial motor vehicle" shall mean a motor vehicle used or designed for use for commercial purposes and includes, but is not limited to, a limousine, a truck, delivery or service vehicle, ambulance, hearse, bus, tractor or back-hoe, the gross vehicle weight of any of which exceeds four thousand, five hundred kilograms (4,500 kg) (gross vehicle weight ratio);
 - c) "derelict vehicle" shall mean a motor vehicle that is wrecked, dismantled, discarded or abandoned or in a state of disrepair that renders it currently inoperable, or the operation of which on a highway would be in contravention of any provincial law or regulation;
 - d) "garage" shall mean a building or portion of a building designed for the sheltering or storage of motor vehicles and the storage of household equipment incidental to residential occupancy;
 - e) "highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;
 - f) Highway Traffic Act means the Highway Traffic Act, R.S.O. 1990, c. H.8;

- g) “lot” shall have the same meaning as in the Comprehensive Zoning By-law;
- h) “motor vehicle” includes an automobile, a motorcycle, a motor-assisted bicycle unless otherwise indicated in the Highway Traffic Act, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car or other motor vehicle running only upon rails, a power-assisted bicycle, a motorized snow vehicle, a traction engine, a farm tractor, a self-propelled implement of husbandry or a roadbuilding machine;
- i) “officer” means a police officer, a police cadet, or other person authorized to enforce the Highway Traffic Act, a by-law enforcement officer, or any person authorized or appointed by Council to enforce this by-law;
- j) “park” or “parking”, when prohibited, means the standing of a vehicle, whether occupied or not, except when standing temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers;
- k) “person” includes an individual, association, firm, partnership, corporation, trust, organization, trustee or agent and their heirs, executors or legal representatives;
- l) “recreational vehicle” shall have the same meaning as in the Comprehensive Zoning By-law;
- m) “residential driveway” means a vehicular passageway having at least one end thereof connected to a highway, a private road or an alley and providing ingress to or egress from or within a lot in a residential zone;
- n) “residential zone” means those lands zoned for residential use in the Comprehensive Zoning By-law; and
- o) “yard” , “front yard” , “side yard” “exterior side yard”, “interior side yard” and “rear yard” shall have the same meaning as in the Comprehensive Zoning By-law and as depicted in Schedule A attached hereto for reference purposes only.

PROHIBITIONS

2. No person shall park a motor vehicle on a lot in a residential zone other than in a garage or on a residential driveway.
3. Notwithstanding section 2, no person shall park a derelict vehicle on a residential driveway.
4. Notwithstanding section 2, no person shall park a commercial motor vehicle in a residential zone unless:

- a) the commercial motor vehicle has a dimension not greater than two and a half metres (2.5 m) in width, two and a half metres (2.5 m) of height above ground and six metres (6 m) in length and if the commercial motor vehicle is parked in a residential driveway or in a garage on a lot, there is only one (1) such commercial motor vehicle so parked at any time; or
 - b) if the commercial motor vehicle is parked in a residential driveway or in a garage on a lot, the lot and any building or structure situate thereon was the subject of a lawful commercial use on the day of the passing of Comprehensive Zoning By-law, so long as the lot and any building or structure continue to be used for that purpose.
5. Notwithstanding section 2, no person shall park a recreational vehicle on a residential driveway unless the lot upon which the recreational vehicle is parked contains a dwelling as defined in the Comprehensive Zoning By-law and:
- a) on lots not abutting Lake Erie, the recreational vehicle is parked on a residential driveway in a rear yard or interior side yard; or
 - b) on lots abutting Lake Erie, the recreational vehicle is parking on a residential driveway in a front yard or an interior side yard.
6. A recreational vehicle parked in a rear yard or interior side yard in accordance with section 5(a) shall be parked behind or beside a building within one half meter (0.5 m) of the interior side lot line and one (1 m) from the rear lot line as the same are defined within the Comprehensive Zoning By-law.
7. Subsections 5(a) and (b) shall not apply from April 1 to and including October 31 of each year if the recreational vehicle is parked only for the purposes of loading and unloading the same before or after use.

ENFORCEMENT

8. Any officer, may, at any reasonable time, enter on land for the purpose of carrying out an inspection to determine compliance with this by law or for the purpose of enforcing this by-law.
9. No person shall obstruct or attempt to obstruct any officer or any other person having authority for the enforcement or administration of this by-law.
10. Where a motor vehicle has been left parked in contravention of this by-law, the owner of the motor vehicle, notwithstanding that he or she was not the driver of the motor vehicle at the time of the contravention of the by-law, is guilty of an offence and is liable to the fine prescribed for the offence unless, at the time of the offence, the motor vehicle was in the possession of some person other than the owner without the owner's consent.

11. If a motor vehicle is parked or left in contravention of this by-law, an officer may cause the vehicle to be removed or impounded or to be restrained and immobilized at the owner's expense, and all costs and charges for removing, care and storage of the vehicle shall be a lien upon the vehicle, which may be enforced in the manner provided by the Repair and Storage Liens Act, R.S.O. 1990, c. R.25, as amended.

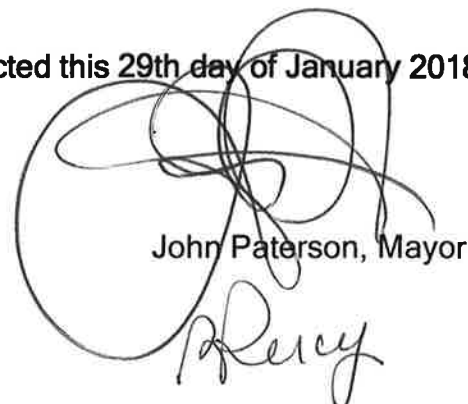
PENALTY

12. Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.
13. If this by-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

GENERALLY

14. If compliance would be impractical, this by-law shall not apply to police vehicles, fire vehicles or ambulances while engaged in their duties, or other motor vehicles while engaged in works undertaken for or on behalf of any municipal corporation.
15. If there is a conflict between a provision of this by-law and a provision of any other by-law of the Municipality, the provision that establishes the higher standard to protect the health and safety of the public and to maintain the highest property standard shall apply.
16. If any section, subsection, schedule, appendix or part, or parts of the By-law are declared by the Superior Court of Justice to be invalid, illegal or ultra vires, such section, subsection, schedule, appendix or part, or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.
17. This By-law shall come into full force and effect upon the passing thereof.

Read a first, second and third time and finally enacted this 29th day of January 2018.

A large, stylized handwritten signature in black ink, appearing to read 'John Paterson', is written over the printed name of the Mayor.

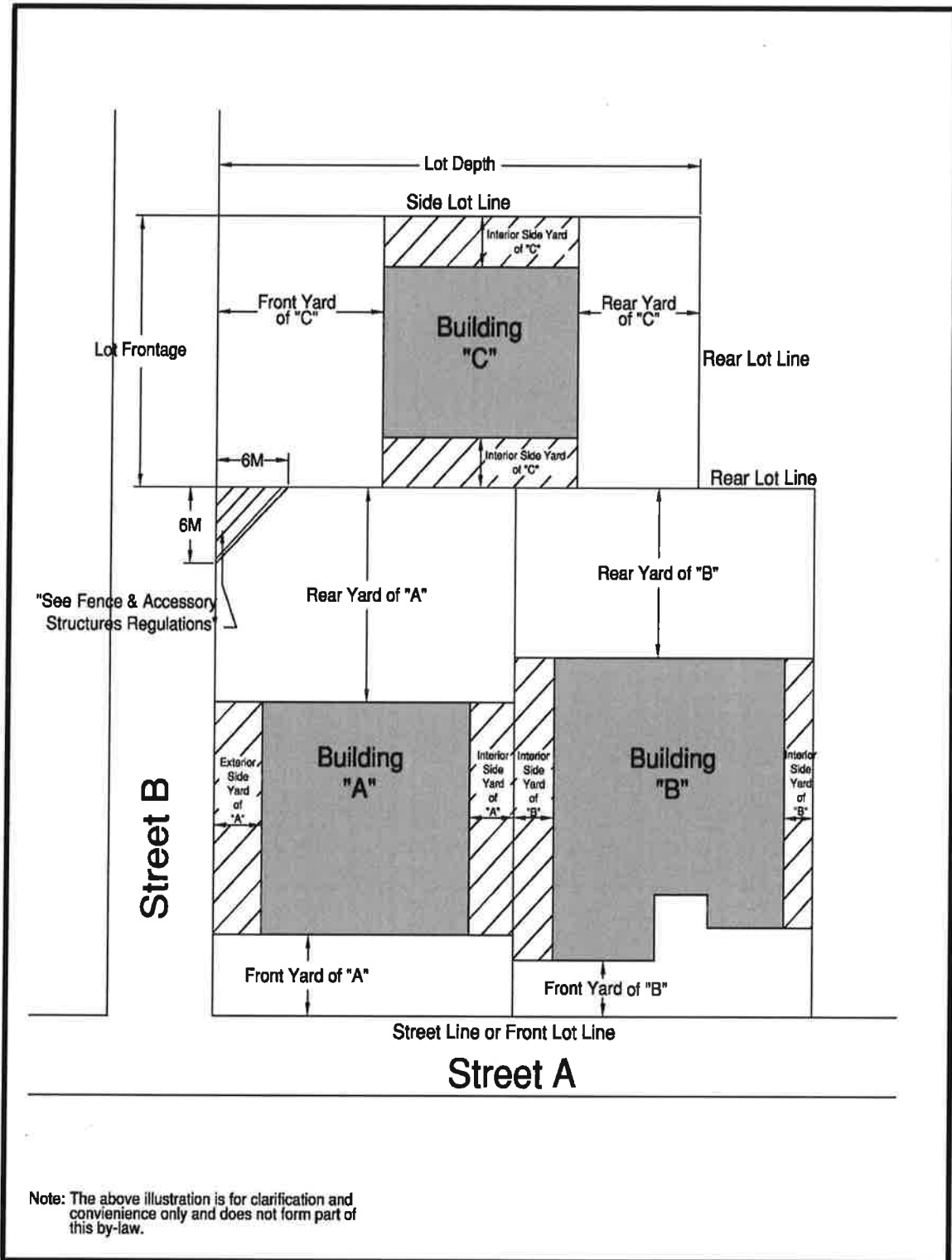
John Paterson, Mayor

A smaller handwritten signature in black ink, appearing to read 'Brenda M. Percy', is written below the printed name of the Clerk.

Brenda M. Percy, Clerk

SCHEDULE A

ILLUSTRATIONS OF YARD DEFINITIONS



OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
WEST REGION

80 DUNDAS STREET, 10th FLOOR, UNIT L
LONDON, ONTARIO N6A 6A8



CABINET DU JUGE PRINCIPAL RÉGIONAL
COUR DE JUSTICE DE L'ONTARIO
RÉGION DE L'OUEST

80, RUE DUNDAS, 10^e ÉTAGE, UNITÉ L
LONDON (ONTARIO) N6A 6A8

TELEPHONE/TÉLÉPHONE (519) 660-2292
FAX/TÉLÉCOPIEUR (519) 660-3138

March 13, 2018

Brenda M. Percy
Municipality of Leamington
111 Erie Street North
Leamington, ON N8H 2Z9

Dear Ms. Percy:

**Re: Set Fines - Provincial Offences Act - Part II
By-law No. 08-18 of the Municipality of Leamington**

Enclosed herewith is the original Order, and original schedule of set fines for the above referenced By-Law, the By-law indicated in the schedule.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

I have forwarded the copy of the Order and the schedule of set fines to the Provincial Offences Court in Windsor together with a copy of the By-law.

Yours truly,

A handwritten signature in black ink, appearing to read "Stephen J. Fuerth".

Stephen J. Fuerth
Regional Senior Justice
West Region

encl.
/cb

PROVINCIAL OFFENCES ACT

Part II

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 08-18, of the Municipality of Leamington, attached hereto are the set fines for those offences. This Order is to take effect March 13, 2018.

Dated at London this 13th day of March 2018.



Stephen J. Fuerth
Regional Senior Justice
West Region

THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON

By-law 08-18, being a by-law to regulate the parking of motor vehicles in residential zones
Part II Provincial Offences Act
Set Fine Schedule

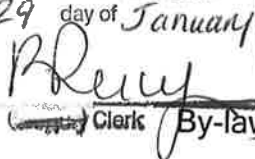
ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1.	Park a motor vehicle other than in a garage or residential driveway	Section 2	\$25.00
2.	Park a derelict vehicle on a residential driveway	Section 3	\$25.00
3.	Park an excluded commercial vehicle in a residential zone	Section 4	\$25.00
4.	Park a recreational vehicle where not permitted at any time	Section 5	\$25.00
5.	Park a recreational vehicle where not permitted	Section 6	\$25.00
6.	Obstruct or attempt to obstruct any officer or authorized person	Section 9	\$250.00

Note: The general penalty provision for the offences indicated above is Section 12 of By-law 08-18, a certified copy of which has been filed.

Certified to be a true copy of
By-law No. 08-18
Enacted by the Council of the
Corporation of the Municipality of Leamington
at its meeting held the 29 day of January
2018.

The Corporation of the Municipality of Leamington

By-law 08-18


Clerk By-law to regulate the parking of motor vehicles
in residential zones.

AND WHEREAS section 128 of the Municipal Act, 2001 provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council are or could become public nuisances;

AND WHEREAS in the opinion of Council for the Corporation of the Municipality of Leamington, the act of parking a motor vehicle in residential zones is or could become a public nuisance;

NOW THEREFORE the Council of The Corporation of the Municipality of Leamington hereby enacts as follows:

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 - b) "commercial motor vehicle" shall mean a motor vehicle used or designed for use for commercial purposes and includes, but is not limited to, a limousine, a truck, delivery or service vehicle, ambulance, hearse, bus, tractor or back-hoe, the gross vehicle weight of any of which exceeds four thousand, five hundred kilograms (4,500 kg) (gross vehicle weight ratio);
 - c) "derelict vehicle" shall mean a motor vehicle that is wrecked, dismantled, discarded or abandoned or in a state of disrepair that renders it currently inoperable, or the operation of which on a highway would be in contravention of any provincial law or regulation;
 - d) "garage" shall mean a building or portion of a building designed for the sheltering or storage of motor vehicles and the storage of household equipment incidental to residential occupancy;
 - e) "highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;
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- i) "officer" means a police officer, a police cadet, or other person authorized to enforce the Highway Traffic Act, a by-law enforcement officer, or any person authorized or appointed by Council to enforce this by-law;
- j) "park" or "parking", when prohibited, means the standing of a vehicle, whether occupied or not, except when standing temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers;
- k) "person" includes an individual, association, firm, partnership, corporation, trust, organization, trustee or agent and their heirs, executors or legal representatives;
- l) "recreational vehicle" shall have the same meaning as in the Comprehensive Zoning By-law;
- m) "residential driveway" means a vehicular passageway having at least one end thereof connected to a highway, a private road or an alley and providing ingress to or egress from or within a lot in a residential zone;
- n) "residential zone" means those lands zoned for residential use in the Comprehensive Zoning By-law; and
- o) "yard" , "front yard" , "side yard" "exterior side yard" , "interior side yard" and "rear yard" shall have the same meaning as in the Comprehensive Zoning By-law and as depicted in Schedule A attached hereto for reference purposes only.

PROHIBITIONS

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4. Notwithstanding section 2, no person shall park a commercial motor vehicle in a residential zone unless:

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 - b) if the commercial motor vehicle is parked in a residential driveway or in a garage on a lot, the lot and any building or structure situate thereon was the subject of a lawful commercial use on the day of the passing of Comprehensive Zoning By-law, so long as the lot and any building or structure continue to be used for that purpose.
5. Notwithstanding section 2, no person shall park a recreational vehicle on a residential driveway unless the lot upon which the recreational vehicle is parked contains a dwelling as defined in the Comprehensive Zoning By-law and:
- a) on lots not abutting Lake Erie, the recreational vehicle is parked on a residential driveway in a rear yard or interior side yard; or
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7. Subsections 5(a) and (b) shall not apply from April 1 to and including October 31 of each year if the recreational vehicle is parked only for the purposes of loading and unloading the same before or after use.

ENFORCEMENT

8. Any officer, may, at any reasonable time, enter on land for the purpose of carrying out an inspection to determine compliance with this by law or for the purpose of enforcing this by-law.
9. No person shall obstruct or attempt to obstruct any officer or any other person having authority for the enforcement or administration of this by-law.
10. Where a motor vehicle has been left parked in contravention of this by-law, the owner of the motor vehicle, notwithstanding that he or she was not the driver of the motor vehicle at the time of the contravention of the by-law, is guilty of an offence and is liable to the fine prescribed for the offence unless, at the time of the offence, the motor vehicle was in the possession of some person other than the owner without the owner's consent.

11. If a motor vehicle is parked or left in contravention of this by-law, an officer may cause the vehicle to be removed or impounded or to be restrained and immobilized at the owner's expense, and all costs and charges for removing, care and storage of the vehicle shall be a lien upon the vehicle, which may be enforced in the manner provided by the Repair and Storage Liens Act, R.S.O. 1990, c. R.25, as amended.

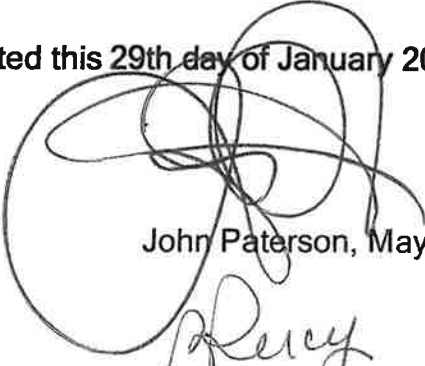
PENALTY

12. Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.
13. If this by-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.


GENERALLY

14. If compliance would be impractical, this by-law shall not apply to police vehicles, fire vehicles or ambulances while engaged in their duties, or other motor vehicles while engaged in works undertaken for or on behalf of any municipal corporation.
15. If there is a conflict between a provision of this by-law and a provision of any other by-law of the Municipality, the provision that establishes the higher standard to protect the health and safety of the public and to maintain the highest property standard shall apply.
16. If any section, subsection, schedule, appendix or part, or parts of the By-law are declared by the Superior Court of Justice to be invalid, illegal or ultra vires, such section, subsection, schedule, appendix or part, or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.
17. This By-law shall come into full force and effect upon the passing thereof.

Read a first, second and third time and finally enacted this 29th day of January 2018.



John Paterson, Mayor



Brenda M. Percy, Clerk

SCHEDULE A

ILLUSTRATIONS OF YARD DEFINITIONS

